

## JOURNAL OF THE SENATE

## Sixty-third Legislative Assembly

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Bismarck, April 24, 2013

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

The prayer was offered by Pastor Keith Ritchie, Cornerstone Community Church, Bismarck.

The roll was called and all members were present.

A quorum was declared by the President.

**APPOINTMENT OF CONFERENCE COMMITTEE**

**SEN. KLEIN MOVED** that the President appoint a new committee of three to act with a like committee from the House as a Conference Committee on SB 2298, which motion prevailed.

**THE PRESIDENT APPOINTED** as a new Conference Committee on:

**SB 2298:** Sens. Klein, Laffen, Murphy

**CONSIDERATION OF CONFERENCE COMMITTEE REPORT**

**SEN. HOGUE MOVED** that the conference committee report on Engrossed HCR 3011 be adopted, which motion prevailed on a voice vote.

Engrossed HCR 3011, as amended, was placed on the Fourteenth order of business.

**SECOND READING OF HOUSE CONCURRENT RESOLUTION**

**HCR 3011:** A concurrent resolution to amend and reenact section 2 of article III of the Constitution of North Dakota, relating to the fiscal impact of measures to initiate constitutional amendments and to the placing of initiated measures on the ballot.

**ROLL CALL**

The question being on the final adoption of the amended resolution, which has been read. The roll was called and there were 29 YEAS, 18 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Armstrong; Berry; Bowman; Burckhard; Campbell; Carlisle; Cook; Dever; Erbele; Flakoll; Grindberg; Hogue; Holmberg; Kilzer; Klein; Krebsbach; Laffen; Larsen; Lee, G.; Lee, J.; Luick; Lyson; Oehlke; Schaible; Sorvaag; Unruh; Wanzek; Wardner

**NAYS:** Anderson; Axness; Dotzenrod; Grabinger; Heckaman; Marcellais; Mathern; Miller; Murphy; Nelson; O'Connell; Poolman; Robinson; Schneider; Sinner; Sitte; Triplett; Warner

Engrossed HCR 3011, as amended, was declared adopted on a recorded roll call vote.

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**MOTION**

**SEN. KLEIN MOVED** that the Senate stand in recess until 1:00 p.m., which motion prevailed.

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

**REPORT OF CONFERENCE COMMITTEE**

**SB 2022, as engrossed:** Your conference committee (Sens. Kilzer, Carlisle, Warner and Reps. Sanford, Hawken, Guggisberg) recommends that the **HOUSE RECEDE** from the House amendments as printed on SJ pages 1251-1253, adopt amendments as follows, and place SB 2022 on the Seventh order:

That the House recede from its amendments as printed on pages 1251-1253 of the Senate Journal and pages 1334-1336 of the House Journal and that Engrossed Senate Bill No. 2022 be amended as follows:

Page 1, line 2, after "indigents" insert "; to amend and reenact subsection 1 of section 29-07-01.1 of the North Dakota Century Code, relating to the application fee for indigent defense services; and to provide legislative intent"

Page 1, replace lines 12 through 16 with:

Commission on legal counsel for indigents	\$11,779,282	\$2,525,122	\$14,304,404
Accrued leave payments	<u>0</u>	<u>116,872</u>	<u>116,872</u>
Total all funds	\$11,779,282	\$2,641,994	\$14,421,276
Less special funds	<u>1,970,852</u>	<u>527,014</u>	<u>2,497,866</u>
Total general fund	\$9,808,430	\$2,114,980	\$11,923,410
Full-time equivalent positions	30.00	3.00	33.00

**SECTION 2. AMENDMENT.** Subsection 1 of section 29-07-01.1 of the North Dakota Century Code is amended and reenacted as follows:

1. Lawyers provided to represent indigent persons must be compensated at a reasonable rate to be determined by the commission on legal counsel for indigents. Expenses necessary for the adequate defense of an indigent person prosecuted in district court, other than for a violation of a home rule county's ordinance, when approved by the commission, must be paid by the state. Expenses necessary for the adequate defense of an indigent person prosecuted for violation of a home rule county's ordinance must be paid by the home rule county. Expenses necessary for the adequate defense of an indigent person prosecuted in municipal court, when approved by the judge, must be paid by the city in which the alleged offense took place. The city shall also pay the expenses in any matter transferred to district court pursuant to section 40-18-06.2 or 40-18-15.1, in any appeal taken to district court from a judgment of conviction in municipal court pursuant to section 40-18-19, and in an appeal or postconviction matter seeking relief from a conviction resulting from violation of a municipal ordinance. A defendant requesting representation by counsel at public expense, or for whom counsel provided at public expense without a request is considered appropriate by the court, shall submit an application for indigent defense services. For an application for indigent defense services in the district court, a nonrefundable application fee of ~~twenty-five~~thirty-five dollars must be paid at the time the application is submitted. The district court may extend the time for payment of the fee or may waive or reduce the fee if the court determines the defendant is financially unable to pay all or part of the fee. If the application fee is not paid before disposition of the case, the fee amount must be added to the amount to be reimbursed under this section. Application fees collected under this subsection must be forwarded for deposit in the indigent defense administration fund established under subsection 4.

**SECTION 3. LEGISLATIVE INTENT - REIMBURSEMENT OF ATTORNEY FEES.** It is the intent of the sixty-third legislative assembly that a defendant who has been charged with a felony and for whom counsel is provided by the commission on legal counsel for indigents pays \$575 for reimbursement of attorney's fees."

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

**Senate Bill No. 2022 - Commission on Legal Counsel for Indigent - Conference Committee Action**

			Changes	Version		
Comm. on Legal Counsel for Indigents	\$14,547,802	\$14,560,287	(\$255,883)	\$14,304,404	\$14,181,362	\$123,042
Accrued leave payments			116,872	116,872	116,872	
Total all funds	\$14,547,802	\$14,560,287	(\$139,011)	\$14,421,276	\$14,298,234	\$123,042
Less estimated income	2,501,677	2,502,051	(4,185)	2,497,866	2,494,174	3,692
General fund	\$12,046,125	\$12,058,236	(\$134,826)	\$11,923,410	\$11,804,060	\$119,350
FTE	33.00	33.00	0.00	33.00	33.00	0.00

### Department No. 188 - Commission on Legal Counsel for Indigent - Detail of Conference Committee Changes

	Adjusts State Employee Compensation and Benefits Package <sup>1</sup>	Provides Separate Line Item for Accrued Leave Payments <sup>2</sup>	Total Conference Committee Changes
Comm. on Legal Counsel for Indigents	(\$139,011)	(\$116,872)	(\$255,883)
Accrued leave payments		116,872	116,872
Total all funds	(\$139,011)	\$0	(\$139,011)
Less estimated income	(4,185)	0	(4,185)
General fund	(\$134,826)	\$0	(\$134,826)
FTE	0.00	0.00	0.00

<sup>1</sup> This amendment adjusts the state employee compensation and benefits package as follows:

- Reduces the performance component from 3 to 5 percent per year to 3 to 5 percent for the first year of the biennium and 2 to 4 percent for the second year of the biennium.
- Reduces the market component from 2 to 4 percent per year to 1 to 2 percent per year for employees below the midpoint of their salary range.
- Reduces funding for retirement contribution increases to provide for a 1 percent state and 1 percent employee increase beginning in January 2014 and no increase in January 2015.

<sup>2</sup> A portion of salaries and wages funding from the general fund (\$113,366) and from other funds (\$3,506) for permanent employees' compensation and benefits is reallocated to an accrued leave payments line item for paying annual leave and sick leave for eligible employees, the same as the House version.

Sections are added to amend subsection 1 of Section 29-07-01.1 to change the indigent defense application fee from \$25 to \$35 and to add legislative intent that reimbursement for indigent defense costs assessed to indigents charged with a felony be increased from \$525 to \$575, the same as the Senate version.

Engrossed SB 2022 was placed on the Seventh order of business on the calendar.

#### REPORT OF CONFERENCE COMMITTEE

**SB 2024, as engrossed:** Your conference committee (Sens. Kilzer, Grindberg, Mathern and Reps. J. Nelson, Pollert, Holman) recommends that the **HOUSE RECEDE** from the House amendments as printed on SJ pages 1254-1255, adopt amendments as follows, and place SB 2024 on the Seventh order:

That the House recede from its amendments as printed on pages 1254 and 1255 of the Senate Journal and pages 1337 and 1338 of the House Journal and that Engrossed Senate Bill No. 2024 be amended as follows:

Page 1, line 2, after "committee" insert "; and to provide for a legislative management study"

Page 1, replace lines 11 through 13 with:

"Comprehensive tobacco control	\$12,922,614	\$2,884,823	\$15,807,437
Accrued leave	<u>0</u>	<u>8,391</u>	<u>8,391</u>
Total special funds	\$12,922,614	\$2,893,214	\$15,815,828
Full-time equivalent positions	5.00	3.00	8.00

**SECTION 2. LEGISLATIVE MANAGEMENT STUDY - COMPREHENSIVE STATEWIDE TOBACCO PREVENTION AND CONTROL PLAN.**

1. During the 2013-14 interim, the legislative management shall consider studying the comprehensive statewide tobacco prevention and control plan used in this state.
2. As part of the study, the tobacco prevention and control executive committee and state department of health shall work together to create a single assessment of programs in both agencies including funding sources for the programs, service providers, areas and populations served by the programs, and effectiveness of the programs on improving the health and policy environment in the state. The tobacco prevention and control executive committee and state department of health shall present this assessment to the legislative management.
3. The study may include:
  - a. A review of the service delivery system for the comprehensive statewide tobacco prevention and control programs provided by the two agencies, whether the delivery system is fiscally efficient, and how the delivery system is consistent with the centers for disease control's best practices for comprehensive tobacco control programs;
  - b. A review of the effectiveness of the comprehensive statewide tobacco prevention and control programs provided in the state and ways to improve the health and policy outcomes of the programs; and
  - c. A review of how the comprehensive statewide tobacco prevention and control programs provided by the two agencies address the Native American population on the Indian reservations.
4. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fourth legislative assembly."

ReNUMBER accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

**Senate Bill No. 2024 - Tobacco Prevention & Control Exec Comm - Conference Committee Action**

	Executive Budget	Senate Version	Conference Committee Changes	Conference Committee Version	House Version	Comparison to House
Comprehensive tobacco control	\$13,016,197	\$19,436,746	(\$3,629,309)	\$15,807,437	\$12,980,127	\$2,827,310
Accrued leave payments			<u>8,391</u>	<u>8,391</u>	<u>8,391</u>	
Total all funds	\$13,016,197	\$19,436,746	(\$3,620,918)	\$15,815,828	\$12,988,518	\$2,827,310
Less estimated income	<u>13,016,197</u>	<u>19,436,746</u>	<u>(3,620,918)</u>	<u>15,815,828</u>	<u>12,988,518</u>	<u>2,827,310</u>
General fund	\$0	\$0	\$0	\$0	\$0	\$0
FTE	5.00	8.00	0.00	8.00	5.00	3.00

**Department No. 305 - Tobacco Prevention & Control Exec Comm - Detail of Conference Committee Changes**

	Adjusts State Employee Compensation and Benefits Package <sup>1</sup>	Provides Separate Line Item for Accrued Leave Payments <sup>2</sup>	Decreases Funding for Comprehensive Tobacco Control <sup>3</sup>	Decreases Funding for Temporary Salaries <sup>4</sup>	Total Conference Committee Changes
Comprehensive tobacco control Accrued leave payments	(\$13,964)	(\$8,391) 8,391	(\$3,416,078)	(\$190,876)	(\$3,629,309) 8,391
Total all funds	(\$13,964)	\$0	(\$3,416,078)	(\$190,876)	(\$3,620,918)
Less estimated income	(13,964)	0	(3,416,078)	(190,876)	(3,620,918)
General fund	\$0	\$0	\$0	\$0	\$0
FTE	0.00	0.00	0.00	0.00	0.00

<sup>1</sup> This amendment adjusts the state employee compensation and benefits package as follows:

- Reduces the performance component from 3 to 5 percent per year to 3 to 5 percent for the first year of the biennium and 2 to 4 percent for the second year of the biennium.
- Reduces the market component from 2 to 4 percent per year to 1 to 2 percent per year for employees below the midpoint of their salary range.
- Reduces funding for retirement contribution increases to provide for a 1 percent state and 1 percent employee increase beginning in January 2014 and no increase in January 2015.

<sup>2</sup> A portion of comprehensive tobacco control funding from other funds for permanent employees' compensation and benefits is reallocated to an accrued leave payments line item for paying annual leave and sick leave for eligible employees.

<sup>3</sup> This amendment reduces funding for comprehensive tobacco control added by the Senate by \$3,416,078 to provide an increase of \$3 million over the executive recommendation. The additional funding is to be used for signage (\$250,000) and grants (\$2,750,000).

<sup>4</sup> The conference committee did not remove the 3 FTE positions added by the Senate but reduced temporary salaries to provide a total of \$200,000.

In addition, this amendment adds a section to provide Legislative Management consider studying the comprehensive statewide tobacco prevention and control plan used in the state. This section was not included in the executive recommendation nor in the House or Senate versions of the bill.

Engrossed SB 2024 was placed on the Seventh order of business on the calendar.

#### REPORT OF CONFERENCE COMMITTEE

**SB 2219:** Your conference committee (Sens. Burckhard, Krebsbach, Murphy and Reps. Wieland, Bellew, Holman), having been unable to agree, recommends that the committee be discharged and a new committee be appointed.

#### REPORT OF CONFERENCE COMMITTEE

**SB 2226:** Your conference committee (Sens. Dever, J. Lee, Mathern and Reps. Porter, Lanning, Oversen) recommends that the **HOUSE RECEDE** from the House amendments as printed on SJ pages 1386-1387, adopt amendments as follows, and place SB 2226 on the Seventh order:

That the House recede from its amendments as printed on pages 1386 and 1387 of the Senate Journal and page 1480 of the House Journal and that Senate Bill No. 2226 be amended as follows:

Page 1, line 14, replace "\$709,000" with "\$332,000"

Page 1, replace lines 18 through 24 with:

"Contracted emergency medical services and trauma medical director	\$125,000
Advanced trauma life support training	
\$40,000	
Development of the rural trauma team development course	\$75,000
Trauma designation visits	\$50,000
State trauma registry	
\$42,000"	

ReNUMBER accordingly

SB 2226 was placed on the Seventh order of business on the calendar.

**REPORT OF CONFERENCE COMMITTEE**

**SB 2016:** Your conference committee (Sens. Grindberg, Carlisle, Warner and Reps. Dosch, Martinson, Boe) recommends that the **HOUSE RECEDE** from the House amendments as printed on SJ pages 1248-1249, adopt amendments as follows, and place SB 2016 on the Seventh order:

That the House recede from its amendments as printed on pages 1248 and 1249 of the Senate Journal and page 1331 and 1332 of the House Journal and that Senate Bill No. 2016 be amended as follows:

Page 1, replace line 12 with:

"Salaries and wages	\$35,270,584	\$953,694	\$36,224,278
Accrued leave payments	0	1,479,868	1,479,868"

Page 1, replace lines 20 through 23 with:

"Total all funds	\$70,496,698	\$9,211,065	\$79,707,763
Less estimated income	<u>68,616,806</u>	<u>9,180,722</u>	<u>77,797,528</u>
Total general fund	\$1,879,892	\$30,343	\$1,910,235
Full-time equivalent positions	261.76	(11.00)	250.76"

ReNUMBER accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

**Senate Bill No. 2016 - Job Service North Dakota - Conference Committee Action**

	Executive Budget	Senate Version	Conference Committee Changes	Conference Committee Version	House Version	Comparison to House
Salaries and wages	\$38,391,976	\$38,391,976	(\$2,167,698)	\$36,224,278	\$35,425,702	\$798,576
Operating expenses	18,687,700	18,687,700		18,687,700	18,687,700	
Capital assets	20,000	20,000		20,000	20,000	
Grants	8,850,497	8,850,497		8,850,497	8,850,497	
Workforce 20/20	1,541,924	1,541,924		1,541,924	1,541,924	
Reed Act - Computer modernization	12,407,000	12,407,000		12,407,000	12,407,000	
Federal stimulus funds	496,496	496,496		496,496	496,496	
Accrued leave payments			1,479,868	1,479,868	1,479,868	
Total all funds	\$80,395,593	\$80,395,593	(\$687,830)	\$79,707,763	\$78,909,187	\$798,576
Less estimated income	<u>78,479,603</u>	<u>78,479,603</u>	<u>(682,075)</u>	<u>77,797,528</u>	<u>77,006,939</u>	<u>790,589</u>
General fund	\$1,915,990	\$1,915,990	(\$5,755)	\$1,910,235	\$1,902,248	\$7,987
FTE	250.76	250.76	0.00	250.76	250.76	0.00

**Department No. 380 - Job Service North Dakota - Detail of Conference Committee Changes**

Corrects Executive Compensation Package <sup>1</sup>	Adjusts State Employee Compensation and Benefits	Provides Separate Line Item for Accrued Leave	Total Conference Committee Changes
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		Package <sup>2</sup>	Payments <sup>3</sup>	
Salaries and wages	\$6,950	(\$694,780)	(\$1,479,868)	(\$2,167,698)
Operating expenses				
Capital assets				
Grants				
Workforce 20/20				
Reed Act - Computer modernization				
Federal stimulus funds				
Accrued leave payments			1,479,868	1,479,868
Total all funds	\$6,950	(\$694,780)	\$0	(\$687,830)
Less estimated income	6,881	(688,956)	0	(682,075)
General fund	\$69	(\$5,824)	\$0	(\$5,755)
FTE	0.00	0.00	0.00	0.00

<sup>1</sup> Funding is added due to a calculation error in the executive compensation package.

<sup>2</sup> This amendment adjusts the state employee compensation and benefits package as follows:

- Reduces the performance component from 3 to 5 percent per year to 3 to 5 percent for the first year of the biennium and 2 to 4 percent for the second year of the biennium.
- Reduces the market component from 2 to 4 percent per year to 1 to 2 percent per year for employees below the midpoint of their salary range.
- Reduces funding for retirement contribution increases to provide for a 1 percent state and 1 percent employee increase beginning in January 2014 and no increase in January 2015.

<sup>3</sup> A portion of salaries and wages funding from the general fund (\$9,313) and from other funds (\$1,470,555) for permanent employees' compensation and benefits is reallocated to an accrued leave payments line item for paying annual leave and sick leave for eligible employees.

SB 2016 was placed on the Seventh order of business on the calendar.

#### REPORT OF CONFERENCE COMMITTEE

**HB 1002, as engrossed:** Your conference committee (Sens. Carlisle, Krebsbach, Warner and Reps. Grande, Martinson, Williams) recommends that the **SENATE RECEDE** from the Senate amendments as printed on HJ pages 1039-1041, adopt amendments as follows, and place HB 1002 on the Seventh order:

That the Senate recede from its amendments as printed on pages 1039-1041 of the House Journal and pages 811 and 812 of the Senate Journal and that Engrossed House Bill No. 1002 be amended as follows:

Page 1, line 2, remove the second "and"

Page 1, line 3, after "state" insert "; and to provide for reports to the budget section"

Page 1, replace lines 15 through 17 with:

"Salaries and wages	\$3,423,343	\$839,880	\$4,263,223
Accrued leave payments	0	82,831	82,831
Operating expenses	2,621,950	41,647	2,663,597"

Page 1, replace lines 21 through 23 with:

"Total all funds	\$12,260,105	(\$89,339)	\$12,170,766
Less estimated income	<u>6,786,984</u>	<u>(942,567)</u>	<u>5,844,417</u>
Total general fund	\$5,473,121	\$853,228	\$6,326,349"

Page 2, replace lines 11 through 13 with:

"Grand total general fund	\$5,783,121	\$863,728	\$6,646,849
Grand total special funds	<u>6,786,984</u>	<u>(942,567)</u>	<u>5,844,417</u>
Grand total all funds	\$12,570,105	(\$78,839)	\$12,491,266"

Page 3, line 8, replace "ninety-five" with "ninety-six"

Page 3, line 8, replace "eight" with "seven"

Page 3, line 9, replace "sixty-three" with "ninety-four"

Page 3, line 9, replace "ninety-eight" with "ninety-nine"

Page 3, line 10, replace "seven hundred thirty-nine" with "six hundred ninety-eight"

Page 3, after line 22, insert:

**"SECTION 7. CREDIT CARD FEES - BUDGET SECTION REPORTS.** The secretary of state shall report semiannually to the budget section during the 2013-14 interim regarding credit card usage rates and credit card fees paid by the secretary of state."

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

**House Bill No. 1002 - Summary of Conference Committee Action**

	Executive Budget	House Version	Conference Committee Changes	Conference Committee Version	Senate Version	Comparison to Senate
Secretary of State						
Total all funds	\$12,216,757	\$11,996,039	\$174,727	\$12,170,766	\$12,231,577	(\$60,811)
Less estimated income	<u>5,845,849</u>	<u>5,842,175</u>	<u>2,242</u>	<u>5,844,417</u>	<u>5,846,294</u>	<u>(1,877)</u>
General fund	\$6,370,908	\$6,153,864	\$172,485	\$6,326,349	\$6,385,283	(\$58,934)
Public Printing						
Total all funds	\$320,500	\$320,500	\$0	\$320,500	\$320,500	\$0
Less estimated income	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
General fund	\$320,500	\$320,500	\$0	\$320,500	\$320,500	\$0
Bill total						
Total all funds	\$12,537,257	\$12,316,539	\$174,727	\$12,491,266	\$12,552,077	(\$60,811)
Less estimated income	<u>5,845,849</u>	<u>5,842,175</u>	<u>2,242</u>	<u>5,844,417</u>	<u>5,846,294</u>	<u>(1,877)</u>
General fund	\$6,691,408	\$6,474,364	\$172,485	\$6,646,849	\$6,705,783	(\$58,934)

**House Bill No. 1002 - Secretary of State - Conference Committee Action**

	Executive Budget	House Version	Conference Committee Changes	Conference Committee Version	Senate Version	Comparison to Senate
Salaries and wages	\$4,392,045	\$4,188,496	\$74,727	\$4,263,223	\$4,406,865	(\$143,642)
Operating expenses	2,663,597	2,563,597	100,000	2,663,597	2,663,597	
Capital assets	10,000	10,000		10,000	10,000	
Petition review	8,000	8,000		8,000	8,000	
Election reform	5,143,115	5,143,115		5,143,115	5,143,115	
Accrued leave payments		<u>82,831</u>		<u>82,831</u>		<u>82,831</u>
Total all funds	\$12,216,757	\$11,996,039	\$174,727	\$12,170,766	\$12,231,577	(\$60,811)
Less estimated income	<u>5,845,849</u>	<u>5,842,175</u>	<u>2,242</u>	<u>5,844,417</u>	<u>5,846,294</u>	<u>(1,877)</u>
General fund	\$6,370,908	\$6,153,864	\$172,485	\$6,326,349	\$6,385,283	(\$58,934)
FTE	31.00	31.00	0.00	31.00	31.00	0.00

**Department No. 108 - Secretary of State - Detail of Conference Committee Changes**



	Removes House Changes to Executive Compensation Package <sup>1</sup>	Adjusts State Employee Compensation and Benefits Package <sup>2</sup>	Restores Funding for Credit Card Usage Fees <sup>3</sup>	Total Conference Committee Changes
Salaries and wages	\$135,538	(\$60,811)		\$74,727
Operating expenses			100,000	100,000
Capital assets				
Petition review				
Election reform				
Accrued leave payments				
Total all funds	\$135,538	(\$60,811)	\$100,000	\$174,727
Less estimated income	4,119	(1,877)	0	2,242
General fund	\$131,419	(\$58,934)	\$100,000	\$172,485
FTE	0.00	0.00	0.00	0.00

<sup>1</sup> Changes made by the House to the executive compensation package are removed.

<sup>2</sup> This amendment adjusts the state employee compensation and benefits package as follows:

- Reduces the performance component from 3 to 5 percent per year to 3 to 5 percent for the first year of the biennium and 2 to 4 percent for the second year of the biennium.
- Reduces the market component from 2 to 4 percent per year to 1 to 2 percent per year for employees below the midpoint of their salary range.
- Reduces funding for retirement contribution increases to provide for a 1 percent state and 1 percent employee increase beginning in January 2014 and no increase in January 2015.

<sup>3</sup> Funding added in the executive budget for increased credit card usage fees, removed by the House, is restored, the same as the Senate version.

Section 4 of the bill is changed to provide a 4 percent first year and a 3 percent second year salary increase for the Secretary of State. The Senate and the executive budget provided 4 percent annual increases. The House provided 3 percent annual increases.

In addition, a section is added to require the Secretary of State report to the Budget Section semiannually regarding credit card usage rates and credit card fees paid by the Secretary of State. This reporting requirement was not included in the executive recommendation nor in the House or Senate versions.

#### House Bill No. 1002 - Public Printing - Conference Committee Action

The Conference Committee made no changes to funding for public printing. Neither the House nor the Senate made any changes to the executive budget for public printing.

Engrossed HB 1002 was placed on the Seventh order of business on the calendar.

**REPORT OF CONFERENCE COMMITTEE**

**HB 1021, as engrossed:** Your conference committee (Sens. Wanzek, G. Lee, Robinson and Reps. Dosch, Martinson, Boe) recommends that the **SENATE RECEDE** from the Senate amendments as printed on HJ pages 1544-1546, adopt amendments as follows, and place HB 1021 on the Seventh order:

That the Senate recede from its amendments as printed on pages 1544-1546 of the House Journal and pages 1371-1373 of the Senate Journal and that Engrossed House Bill No. 1021 be amended as follows:

Page 1, line 2, after "insurance" insert "; to provide for litigation contingency and settlement funds; and to provide for information technology projects and business process analysis"

Page 1, replace lines 10 through 13 with:

"Workforce safety and insurance operations	\$58,413,293	\$2,496,164	\$60,909,457
Accrued leave payments	0	1,662,965	1,662,965
Litigation contingency	0	750,000	750,000
Total special funds	\$58,413,293	\$4,909,129	\$63,322,422"

Page 1, remove lines 15 through 24

Page 2, replace lines 1 through 7 with:

**"SECTION 2. LITIGATION CONTINGENCY - SETTLEMENT FUNDS - USE OF FUNDS.** Funding included in the litigation contingency line item in section 1 of this Act may be spent by workforce safety and insurance only for fees and other costs associated with workforce safety and insurance pursuing a civil action for damages relating to the unsuccessful advanced information management computer system project. Any remaining unused litigation funds may be used by workforce safety and insurance for the development or operation of information technology projects. Any moneys received by workforce safety and insurance resulting from a settlement or court awards relating to this project must be retained in the workforce safety and insurance fund and reported to the sixty-fourth legislative assembly.

**SECTION 3. INFORMATION TECHNOLOGY PROJECTS FUNDING - BUSINESS PROCESS ANALYSIS.** The workforce safety and insurance operations line item in section 1 of this Act includes the sum of \$4,725,000, which may only be spent for costs of conducting a business process analysis of up to \$500,000, as provided in section 4 of this Act and for appropriate information technology equipment, development, and operational costs of information technology projects as approved by workforce safety and insurance's executive steering board and the state information technology advisory committee.

**SECTION 4. BUSINESS PROCESS ANALYSIS.** During the 2013-14 interim, workforce safety and insurance shall contract with the information technology department and a private consultant to conduct a business process analysis of workforce safety and insurance. The analysis must include a review of the workforce safety and insurance business process and its use of information technology to support the business process and related information technology services."

Re-number accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

**House Bill No. 1021 - Workforce Safety and Insurance - Conference Committee Action**

	Executive Budget	House Version	Conference Committee Changes	Conference Committee Version	Senate Version	Comparison to Senate
Workforce Safety and Insurance	\$63,131,407					
Workforce Safety and Insurance operation		56,014,723	4,894,734	60,909,457	63,968,518	(3,059,061)
Accrued leave payments		1,662,965		1,662,965		1,662,965
Litigation Contingency			750,000	750,000	750,000	

Total all funds	\$63,131,407	\$57,677,688	\$5,644,734	\$63,322,422	\$64,718,518	(\$1,396,096)
Less estimated income	63,131,407	57,677,688	5,644,734	63,322,422	64,718,518	(1,396,096)
General fund	\$0	\$0	\$0	\$0	\$0	\$0
FTE	250.14	250.14	0.00	250.14	254.14	(4.00)

**Department No. 485 - Workforce Safety and Insurance - Detail of Conference Committee Changes**

	Removes House Changes to Executive Compensation Package <sup>1</sup>	Adjusts State Employee Compensation and Benefits Package <sup>2</sup>	Adds Funding for Contingent Litigation Fees and Costs <sup>3</sup>	Adds Funding for Information Technology Projects and Business Process Analysis <sup>4</sup>	Removes Funding for Business Process Analysis <sup>5</sup>	Removes Funding for Information Technology Staffing Analysis <sup>6</sup>
Workforce Safety and Insurance						
Workforce Safety and Insurance operation	1,397,598	(627,864)		4,725,000	(500,000)	(100,000)
Accrued leave payments						
Litigation Contingency			750,000			
Total all funds	\$1,397,598	(\$627,864)	\$750,000	\$4,725,000	(\$500,000)	(\$100,000)
Less estimated income	1,397,598	(627,864)	750,000	4,725,000	(500,000)	(100,000)
General fund	\$0	\$0	\$0	\$0	\$0	\$0
FTE	0.00	0.00	0.00	0.00	0.00	0.00

	Total Conference Committee Changes
Workforce Safety and Insurance	
Workforce Safety and Insurance operation	4,894,734
Accrued leave payments	
Litigation Contingency	750,000
Total all funds	\$5,644,734
Less estimated income	5,644,734
General fund	\$0
FTE	0.00

<sup>1</sup> Changes made by the House to the executive compensation package are removed.

<sup>2</sup> This amendment adjusts the state employee compensation and benefits package as follows:

- Reduces the performance component from 3 to 5 percent per year to 3 to 5 percent for the first year of the biennium and 2 to 4 percent for the second year of the biennium.
- Reduces the market component from 2 to 4 percent per year to 1 to 2 percent per year for employees below the midpoint of their salary range.
- Reduces funding for retirement contribution increases to provide for a 1 percent state and 1 percent employee increase beginning in January 2014 and no increase in January 2015.

<sup>3</sup> This amendment provides contingent funding for litigation costs that may be necessary in order to recover expenses paid to Aon eSolutions, the same as the Senate version. The Conference Committee made available any remaining unused funds to be spent by Workforce Safety and Insurance on the development or operation of information technology projects. In the event of a successful civil action, the moneys from settlement or court awards are to be retained in the Workforce Safety and Insurance fund and reported to the 64th Legislative Assembly.

<sup>4</sup> This amendment adds funding for information technology projects, the same as the Senate version. The agency may determine which projects are developed. The Conference Committee made available \$500,000 included of this funding to be used for a business process analysis to be conducted by Workforce Safety and Insurance, the Information Technology Department, and a private consultant.

<sup>5</sup> This amendment removes the funding added by the House for the business process analysis. The Senate also removed this funding.

<sup>6</sup> This amendment removes the funding added by the House for an information technology staffing analysis. The Senate also removed this funding.

Engrossed HB 1021 was placed on the Seventh order of business on the calendar.

**REPORT OF CONFERENCE COMMITTEE**

**HB 1022, as engrossed:** Your conference committee (Sens. Carlisle, G. Lee, Robinson and Reps. Kempenich, Sanford, Glassheim) recommends that the **SENATE RECEDE** from the Senate amendments as printed on HJ pages 1394-1396, adopt amendments as follows, and place HB 1022 on the Seventh order:

That the Senate recede from its amendments as printed on pages 1394-1396 of the House Journal and pages 1260-1262 of the Senate Journal and that Engrossed House Bill No. 1022 be amended as follows:

Page 1, replace lines 13 through 18 with:

"Salaries and wages	\$3,203,114	\$569,390	\$3,772,504
Accrued leave payments	0	71,541	71,541
Operating expenses	947,840	25,484	973,324
Contingencies	<u>82,000</u>	<u>0</u>	<u>82,000</u>
Total special funds	\$4,232,954	\$666,415	\$4,899,369
Full-time equivalent positions	18.00	1.00	19.00"

Page 1, remove lines 23 and 24

Page 2, replace lines 1 through 4 with:

"Salaries and wages	\$4,563,507	\$452,832	\$5,016,339
Accrued leave payments	0	103,217	103,217
Operating expenses	2,054,383	204,511	2,258,894
Contingencies	<u>250,000</u>	<u>0</u>	<u>250,000</u>
Total special funds	\$6,867,890	\$760,560	\$7,628,450
Full-time equivalent positions	33.00	0.00	33.00"

Page 2, replace line 9 with:

"Grand total special funds	\$11,100,844	\$1,426,975	\$12,527,819"
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Re-number accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

**House Bill No. 1022 - Summary of Conference Committee Action**

Retirement and Investment Office	Executive Budget	House Version	Conference Committee Changes	Conference Committee Version	Senate Version	Comparison to Senate
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Total all funds	\$4,648,730	\$4,833,019	\$66,350	\$4,899,369	\$4,947,281	(\$47,912)
Less estimated income	4,648,730	4,833,019	66,350	4,899,369	4,947,281	(47,912)
General fund	\$0	\$0	\$0	\$0	\$0	\$0
Public Employees Retirement System						
Total all funds	\$7,715,503	\$7,527,133	\$101,317	\$7,628,450	\$7,726,987	(\$98,537)
Less estimated income	7,715,503	7,527,133	101,317	7,628,450	7,726,987	(98,537)
General fund	\$0	\$0	\$0	\$0	\$0	\$0
Bill total						
Total all funds	\$12,364,233	\$12,360,152	\$167,667	\$12,527,819	\$12,674,268	(\$146,449)
Less estimated income	12,364,233	12,360,152	167,667	12,527,819	12,674,268	(146,449)
General fund	\$0	\$0	\$0	\$0	\$0	\$0

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

	Executive Budget	House Version	Conference Committee Changes	Conference Committee Version	Senate Version	Comparison to Senate
Salaries and wages	\$3,611,563	\$3,706,154	\$66,350	\$3,772,504	\$3,891,957	(\$119,453)
Operating expenses	955,167	973,324		973,324	973,324	
Contingencies	82,000	82,000		82,000	82,000	
Accrued leave payments		71,541		71,541		71,541
Total all funds	\$4,648,730	\$4,833,019	\$66,350	\$4,899,369	\$4,947,281	(\$47,912)
Less estimated income	4,648,730	4,833,019	66,350	4,899,369	4,947,281	(47,912)
General fund	\$0	\$0	\$0	\$0	\$0	\$0
FTE	18.00	19.00	0.00	19.00	19.00	0.00

### Department No. 190 - Retirement and Investment Office - Detail of Conference Committee Changes

	Removes House Changes to Executive Compensation Package <sup>1</sup>	Adjusts State Employee Compensation and Benefits Package <sup>2</sup>	Total Conference Committee Changes
Salaries and wages	\$114,262	(\$47,912)	\$66,350
Operating expenses			
Contingencies			
Accrued leave payments			
Total all funds	\$114,262	(\$47,912)	\$66,350
Less estimated income	114,262	(47,912)	66,350
General fund	\$0	\$0	\$0
FTE	0.00	0.00	0.00

<sup>1</sup> Changes made by the House to the executive compensation package are removed.

<sup>2</sup> This amendment adjusts the state employee compensation and benefits package as follows:

- Reduces the performance component from 3 to 5 percent per year to 3 to 5 percent for the first year of the biennium and 2 to 4 percent for the second year of the biennium.
- Reduces the market component from 2 to 4 percent per year to 1 to 2 percent per year for employees below the midpoint of their salary range.
- Reduces funding for retirement contribution increases to provide for a 1 percent state and 1 percent employee increase beginning in January 2014 and no increase in January 2015.

### House Bill No. 1022 - Public Employees Retirement System - Conference Committee Action

	Executive Budget	House Version	Conference Committee Changes	Conference Committee Version	Senate Version	Comparison to Senate
Salaries and wages	\$5,206,609	\$4,915,022	\$101,317	\$5,016,339	\$5,218,093	(\$201,754)
Operating expenses	2,258,894	2,258,894		2,258,894	2,258,894	
Contingencies	250,000	250,000		250,000	250,000	
Accrued leave payments		103,217		103,217		103,217
Total all funds	\$7,715,503	\$7,527,133	\$101,317	\$7,628,450	\$7,726,987	(\$98,537)
Less estimated income	7,715,503	7,527,133	101,317	7,628,450	7,726,987	(98,537)
General fund	\$0	\$0	\$0	\$0	\$0	\$0
FTE	33.00	33.00	0.00	33.00	33.00	0.00

### Department No. 192 - Public Employees Retirement System - Detail of Conference Committee Changes

	Removes House Changes to Executive Compensation Package <sup>1</sup>	Adjusts State Employee Compensation and Benefits Package <sup>2</sup>	Total Conference Committee Changes
Salaries and wages	\$199,854	(\$98,537)	\$101,317
Operating expenses			
Contingencies			
Accrued leave payments			
Total all funds	\$199,854	(\$98,537)	\$101,317
Less estimated income	199,854	(98,537)	101,317
General fund	\$0	\$0	\$0
FTE	0.00	0.00	0.00

<sup>1</sup> Changes made by the House to the executive compensation package are removed.

<sup>2</sup> This amendment adjusts the state employee compensation and benefits package as follows:

- Reduces the performance component from 3 to 5 percent per year to 3 to 5 percent for the first year of the biennium and 2 to 4 percent for the second year of the biennium.
- Reduces the market component from 2 to 4 percent per year to 1 to 2 percent per year for employees below the midpoint of their salary range.
- Reduces funding for retirement contribution increases to provide for a 1 percent state and 1 percent employee increase beginning in January 2014 and no increase in January 2015.

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

#### REPORT OF CONFERENCE COMMITTEE

**HB 1302, as reengrossed:** Your conference committee (Sens. Oehlke, Armstrong, Axness and Reps. Ruby, K. Koppelman, Delmore) recommends that the **SENATE RECEDE** from the Senate amendments as printed on HJ pages 1343-1360, adopt amendments as follows, and place HB 1302 on the Seventh order:

That the Senate recede from its amendments as printed on pages 1343-1360 of the House Journal and pages 970-987 of the Senate Journal and that Reengrossed House Bill No. 1302 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 subsection to sections 27-20-10, 27-20-31, and 39-06.1-10 and a new section to chapter 39-20 of the North Dakota Century Code, relating to the twenty-four seven sobriety program; to amend and reenact subsection 3 of section 29-06-15, subsection 7 of section 39-06.1-10, sections 39-06.1-11, 39-08-01, 39-08-01.2, 39-08-01.3, 39-08-01.4, 39-20-01, 39-20-01.1, 39-20-03.1, 39-20-04, 39-20-04.1, and 39-20-05, subsections 6, 9, and 10 of section 39-20-07, and sections 39-20-14 and 40-05-06 of the North Dakota Century Code, relating to driving while under the influence and city penalties; to provide for an underage drinking prevention program; to provide for a legislative management study; to provide a penalty; and to provide appropriations.

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

**SECTION 1.** A new subsection to section 27-20-10 of the North Dakota Century Code is created and enacted as follows:

If a child is subject to informal adjustment for a violation of section 39-08-01 or equivalent ordinance, or if a child is found to have an alcohol concentration of at least two one-hundredths of one percent by weight at the time of performance of a test within two hours after driving or being in physical control of a motor vehicle, the juvenile court shall require the child to participate in the twenty-four seven sobriety program under chapter 54-12 for up to nine months.

**SECTION 2.** A new subsection to section 27-20-31 of the North Dakota Century Code is created and enacted as follows:

If a child is adjudicated delinquent for a violation of section 39-08-01 or equivalent ordinance, or if a child is found to have an alcohol concentration of at least two one-hundredths of one percent by weight at the time of performance of a test within two hours after driving or being in physical control of a motor vehicle, the juvenile court shall require the child to participate in the twenty-four seven sobriety program under chapter 54-12.

**SECTION 3. AMENDMENT.** Subsection 3 of section 29-06-15 of the North Dakota Century Code is amended and reenacted as follows:

3. If a law enforcement officer has reasonable cause to believe an individual has violated a lawful order of a court of this state which requires the individual to participate in the twenty-four seven sobriety program authorized in sections 54-12-27 through 54-12-31, the law enforcement officer may immediately take the individual into custody without a warrant. An individual taken into custody under this subsection may not be released on bail or on the individual's personal recognizance unless the individual has made a personal appearance before a magistrate.

**SECTION 4. AMENDMENT.** Subsection 7 of section 39-06.1-10 of the North Dakota Century Code is amended and reenacted as follows:

7. The period of suspension imposed for a violation of section 39-08-01, 39-08-01.2, or 39-08-01.4 or equivalent ordinance is:
  - a. Ninety-one days if the operator's record shows the person has not violated section 39-08-01 or equivalent ordinance within the ~~five~~seven years preceding the last violation.
  - b. One hundred eighty days if the operator's record shows the person has not violated section 39-08-01 or equivalent ordinance within ~~five~~the seven years preceding the last violation and the violation was for an alcohol concentration of at least eighteen one-hundredths of one percent by weight.

- c. Three hundred sixty-five days if the operator's record shows the person has once violated section 39-08-01 or equivalent ordinance within the ~~five~~seven years preceding the last violation.
- d. Two years if the operator's record shows the person has at least once violated section 39-08-01 or equivalent ordinance within the ~~five~~seven years preceding the last violation and the violation was for an alcohol concentration of at least eighteen one-hundredths of one percent by weight.
- e. Two years if the operator's record shows the person has at least twice violated section 39-08-01 or equivalent ordinance within the ~~five~~seven years preceding the last violation.
- f. Three years if the operator's record shows the person has at least twice violated section 39-08-01 or equivalent ordinance within the ~~five~~seven years preceding the last violation and the violation is for an alcohol concentration of at least eighteen one-hundredths of one percent by weight.

**SECTION 5.** A new subsection to section 39-06.1-10 of the North Dakota Century Code is created and enacted as follows:

If an individual has a temporary restricted driver's license with the restriction the individual participates in the twenty-four seven sobriety program under chapter 54-12, the individual may operate a motor vehicle during the suspension periods under this section.

**SECTION 6. AMENDMENT.** Section 39-06.1-11 of the North Dakota Century Code is amended and reenacted as follows:

**39-06.1-11. Temporary restricted license - Ignition interlock device.**

1. Except as provided under subsection 2, if the director has suspended a license under section 39-06.1-10 or has extended a suspension or revocation under section 39-06-43, upon receiving written application from the offender affected, the director may for good cause issue a temporary restricted operator's license valid for the remainder of the suspension period after seven days of the suspension period have passed.
2. If the director has suspended a license under chapter 39-20, or after a violation of section 39-08-01 or equivalent ordinance, upon written application of the offender the director may issue ~~for good cause~~ a temporary restricted license that takes effect after thirty days of the suspension have been served after a first offense under section 39-08-01 or chapter 39-20, but if the offender is participating in the twenty-four seven sobriety program under chapter 54-12, the director may issue a temporary restricted license that takes effect after fourteen days of the suspension have been served if the driver is not subject to any unrelated suspension or revocation. The director may not issue a temporary restricted license to any offender whose operator's license has been revoked under section 39-20-04 or suspended upon a second or subsequent offense under section 39-08-01 or chapter 39-20, except that a temporary restricted license may be issued ~~for good cause~~in accordance with subsection 5 if the offender is participating in the twenty-four seven sobriety program under chapter 54-12 or if the offender has not committed an offense for a period of two years before the date of the filing of a written application that must be accompanied by a report from an appropriate licensed addiction treatment program or if the offender is participating in the drug court program and has not committed an offense for a period of three hundred sixty-five days before the date of the filing of a written application that must be accompanied by a recommendation from the district court. The director may conduct a hearing for the purposes of obtaining information, reports, and evaluations from courts,



law enforcement, and citizens to determine the offender's conduct and driving behavior during the prerequisite period of time. The director may also require that an ignition interlock device be installed in the offender's vehicle.

3. The director may not issue a temporary restricted license for a period of license revocation or suspension imposed under subsection 5 of section 39-06-17 or section 39-06-31. A temporary restricted license may be issued for suspensions ordered under subsection 7 of section 39-06-32 if it could have been issued had the suspension resulted from in-state conduct.
4. A restricted license issued under this section is solely for the use of a motor vehicle during the licensee's normal working hours, or as provided under subsection 5, and may contain any other restrictions authorized by section 39-06-17. Violation of a restriction imposed according to this section is deemed a violation of section 39-06-17.
5. If an offender has been charged with, or convicted of, a second or subsequent violation of section 39-08-01 or equivalent ordinance, or if the offender's license is subject to suspension under chapter 39-20 and the offender's driver's license is not subject to an unrelated suspension or revocation, the director shall issue a temporary restricted driver's permit license to the offender only for the purpose of participation upon the restriction the offender participate in the twenty-four seven sobriety program upon under chapter 54-12. The offender shall submit an application to the director for a temporary restricted license along with submission of proof of financial responsibility and proof of participation in the twenty-four seven sobriety program by the offender to receive a temporary restricted license. If a court or the parole board finds that an offender has violated a condition of the twenty-four seven sobriety program, the court or parole board may order the temporary restricted driver's permit be revoked and take possession of the temporary restricted driver's permit. The court or the parole board shall send a copy of the order to the director who shall record the revocation of the temporary restricted driver's permit. Revocation of a temporary restricted driver's permit for violation of a condition of the twenty-four seven sobriety program does not preclude the offender's eligibility for a temporary restricted driver's license under any other provisions of this section.

**SECTION 7. AMENDMENT.** Section 39-08-01 of the North Dakota Century Code is amended and reenacted as follows:

**39-08-01. Persons under the influence of intoxicating liquor or any other drugs or substances not to operate vehicle - Penalty.**

1. A person may not drive or be in actual physical control of any vehicle upon a highway or upon public or private areas to which the public has a right of access for vehicular use in this state if any of the following apply:
  - a. That person has an alcohol concentration of at least eight one-hundredths of one percent by weight at the time of the performance of a chemical test within two hours after the driving or being in actual physical control of a vehicle.
  - b. That person is under the influence of intoxicating liquor.
  - c. That person is under the influence of any drug or substance or combination of drugs or substances to a degree which renders that person incapable of safely driving.
  - d. That person is under the combined influence of alcohol and any other drugs or substances to a degree which renders that person incapable of safely driving.

- e. That individual refuses to submit to any of the following:
- (1) A chemical test, or tests, of the individual's blood, breath, or urine to determine the alcohol concentration or presence of other drugs, or combination thereof, in the individual's blood, breath, or urine, at the direction of a law enforcement officer under section 39-06.2-10.2 if the individual is driving or is in actual physical control of a commercial motor vehicle; or
  - (2) A chemical test, or tests, of the individual's blood, breath, or urine to determine the alcohol concentration or presence of other drugs, or combination thereof, in the individual's blood, breath, or urine, at the direction of a law enforcement officer under section 39-20-01; or
  - (3) An onsite screening test, or tests, of the individual's breath for the purpose of estimating the alcohol concentration in the individual's breath upon the request of a law enforcement officer under section 39-20-14.

The fact that any person charged with violating this section is or has been legally entitled to use alcohol or other drugs or substances is not a defense against any charge for violating this section, unless a drug which predominately caused impairment was used only as directed or cautioned by a practitioner who legally prescribed or dispensed the drug to that person.

2. Unless as otherwise provided in section 39-08-01.2, an individual who operates a motor vehicle on a highway or on public or private areas to which the public has a right of access for vehicular use in this state who refuses to subject to a chemical test, or tests, required under section 39-06.2-10.2, 39-20-01, or 39-20-14, is guilty of an offense under this section.
3. An individual violating this section or equivalent ordinance is guilty of a class B misdemeanor for the first or second offense in a five-year seven-year period, of a class A misdemeanor for a third offense in a five-year seven-year period, of a class A misdemeanor for the fourth offense in a seven-year period, and of a class C felony for a fifth or subsequent offense in a seven-year period C felony for any fourth or subsequent offense regardless of the length of time since the previous offense. The minimum penalty for violating this section is as provided in subsection 45. The court shall take judicial notice of the fact that an offense would be a subsequent offense if indicated by the records of the director or may make a subsequent offense finding based on other evidence.
- 3-4. Upon conviction of a second or subsequent offense within five seven years under this section or equivalent ordinance, the court must may order the motor vehicle number plates of all of the motor vehicles owned and operated by the offender at the time of the offense to be impounded for the duration of the period of suspension or revocation of the offender's driving privilege by the licensing authority. The impounded number plates must be sent to the director who must retain them for the period of suspension or revocation, subject to their disposition by the court. The court may make an exception to this subsection, on an individual basis, to avoid undue hardship to an individual who is completely dependent on the motor vehicle for the necessities of life, including a family member of the convicted individual and a coowner of the motor vehicle, but not including or if the offender is participating in the twenty-four seven sobriety program.
- 4-5. A person convicted of violating this section, or an equivalent ordinance, must be sentenced in accordance with this subsection. For purposes of this subsection, unless the context otherwise requires, "drug court

program" means a district court-supervised treatment program approved by the supreme court which combines judicial supervision with alcohol and drug testing and chemical addiction treatment in a licensed treatment program. The supreme court may adopt rules, including rules of procedure, for drug courts and the drug court program.

- a. (1) For a first offense, the sentence must include both a fine of at least ~~two hundred fifty~~ five hundred dollars and an order for addiction evaluation by an appropriate licensed addiction treatment program.
- (2) In addition, for a first offense when the convicted person has an alcohol concentration of at least sixteen one-hundredths of one percent by weight, the offense is an aggravated first offense and the sentence must include a fine of at least seven hundred fifty dollars and at least two days' imprisonment.
- b. For a second offense within ~~five~~ seven years, the sentence must include at least ~~five~~ ten days' imprisonment ~~or placement in a minimum security facility, of which forty-eight hours must be served consecutively, or thirty days' community service;~~ a fine of ~~at least one thousand~~ one thousand five hundred dollars; ~~and an order for addiction evaluation by an appropriate licensed addiction treatment program; and at least twelve months' participation in the twenty-four seven sobriety program under chapter 54-12 as a mandatory condition of probation.~~
- c. For a third offense within ~~five~~ seven years, the sentence must include at least ~~sixty one hundred twenty~~ twenty days' imprisonment ~~or placement in a minimum security facility, of which forty-eight hours must be served consecutively;~~ a fine of ~~one at least two~~ at least two thousand dollars; ~~and an order for addiction evaluation by an appropriate licensed addiction treatment program; at least one year's supervised probation; and participation in the twenty-four seven sobriety program under chapter 54-12 as a mandatory condition of probation.~~
- d. For a fourth or subsequent offense ~~within seven years,~~ the sentence must include ~~at least one hundred eighty days' year and one day's imprisonment or placement in a minimum security facility, of which forty-eight hours must be served consecutively;~~ a fine of ~~one at least two~~ at least two thousand dollars; ~~and an order for addiction evaluation by an appropriate licensed treatment program; at least two years' supervised probation; and participation in the twenty-four seven sobriety program under chapter 54-12 as a mandatory condition of probation.~~
- e. ~~The execution or imposition of sentence under this section may not be suspended or deferred under subsection 3 or 4 of section 12.1-32-02 for an offense subject to this section.~~
- f. If the offense is subject to subdivision a or b, a municipal court or district court may not suspend a sentence, but may convert each day of a term of imprisonment to ten hours of community service for an offense subject to paragraph 2 of subdivision a. If the offense is subject to subdivision c, the district court may suspend a sentence, except for sixty days' imprisonment, under subsection 3 of section 12.1-32-02 on the condition that the defendant first undergo and complete an evaluation for alcohol and substance abuse treatment and rehabilitation and upon completion of the twenty-four seven sobriety program. If the offense is subject to subdivision d, the district court may suspend a sentence, except for one year's imprisonment, under subsection 3 of section 12.1-32-02 on the condition that the defendant first undergo and complete an evaluation for alcohol and substance abuse treatment and rehabilitation. If the offense is subject to subdivision e or d, the district court may suspend a sentence, except for ten days'

~~imprisonment, under subsection 3 or 4 of section 12.1-32-02 on the condition that the defendant first undergo and complete an evaluation for alcohol and substance abuse treatment and rehabilitation. If the defendant is found to be in need of alcohol and substance abuse treatment and rehabilitation, the district court may order the defendant placed under the supervision and management of the department of corrections and rehabilitation and is subject to the conditions of probation under section 12.1-32-07. The district court shall~~may require the defendant to complete alcohol and substance abuse treatment and rehabilitation under the direction of the drug court program as a condition of probation in accordance with rules adopted by the supreme court. If the district court finds that a defendant has failed to undergo an evaluation or complete treatment or has violated any condition of probation, the district court shall revoke the defendant's probation and shall sentence the defendant in accordance with this subsection.

- f.g. For purposes of this section, conviction of an offense under a law or ordinance of another state which is equivalent to this section must be considered a prior offense if such offense was committed within the time limitations specified in this ~~subsection~~section.
- g.h. If the penalty mandated by this section includes imprisonment or placement upon conviction of a violation of this section or equivalent ordinance, and if an addiction evaluation has indicated that the defendant needs treatment, the court may order the defendant to undergo treatment at an appropriate licensed addiction treatment program under subdivision g of subsection 1 of section 12.1-32-02 and the time spent by the defendant in the treatment must be credited as a portion of a sentence of imprisonment or placement under this section. A court may not order the department of corrections and rehabilitation to be responsible for the costs of treatment in a private treatment facility.
- i. If the court sentences an individual to the legal and physical custody of the department of corrections and rehabilitation, the department may place the individual in an alcohol treatment program designated by the department. Upon the individual's successful completion of the alcohol treatment program, the department shall release the individual from imprisonment to serve the remainder of the sentence of imprisonment on probation, which may include placement in another facility or treatment program. If an individual is placed in another facility or treatment program after release from imprisonment the remainder of the individual's sentence of imprisonment must be considered time spent in custody.
- 5-6. ~~As used in subdivisions b and c of subsection 4, the term "imprisonment" includes house arrest. As a condition of house arrest, a defendant may not consume alcoholic beverages. The house arrest must include a program of electronic home detention in which and the defendant is tested at least twice daily for the consumption of alcohol shall participate in the twenty-four seven sobriety program. The defendant shall defray all costs associated with the electronic home detention. This subsection does not apply to individuals committed to or under the supervision and management of the department of corrections and rehabilitation. For an offense under subdivision b or c of subsection 5, no more than ninety percent of the sentence may be house arrest.~~
7. As used in this title, participation in the twenty-four seven sobriety program under chapter 54-12 means compliance with sections 54-12-27 through 54-12-31, and requires sobriety breath testing twice per day seven days per week or electronic alcohol monitoring, urine testing, or drug patch testing. The offender is responsible for all twenty-four seven sobriety program fees and the court may not waive the fees.

8. An individual who operates a motor vehicle on a highway or on public or private areas to which the public has a right of access for vehicular use in this state who refuses to submit to a chemical test, or tests required under section 39-06.2-10.2, 39-20-01, or 39-20-14, is guilty of an offense under this section.

**SECTION 8. AMENDMENT.** Section 39-08-01.2 of the North Dakota Century Code is amended and reenacted as follows:

**39-08-01.2. Special punishment for causing injury or death while operating a vehicle while under the influence of alcohol.**

- ~~1. If an individual is convicted of an offense under chapter 12.1-16 and the conviction is based in part on the evidence of the individual's operation of a motor vehicle while under the influence of alcohol or drugs, the sentence imposed must include at least one year's imprisonment if the individual was an adult at the time of the offense.~~
- ~~2. If an individual is convicted of violating section 39-08-01, or section 39-08-03 based in part on the evidence of the individual's operation of a motor vehicle while under the influence of alcohol or drugs, and the violation caused serious bodily injury, as defined in section 12.1-01-04, to another individual, that individual is guilty of a class A misdemeanor and the sentence must include at least ninety days' imprisonment if the individual was an adult at the time of the offense.~~
- ~~3. The sentence under this section may not be suspended unless the court finds that manifest injustice would result from imposition of the sentence. Before a sentence under this section applies, a defendant must be notified of the minimum mandatory sentence. If the finding of guilt is by jury verdict, the verdict form must indicate that the jury found the elements that create the minimum sentence.~~

1. An individual is guilty of criminal vehicular homicide if the individual commits an offense under section 39-08-01 or equivalent ordinance and as a result the individual causes a death of another individual to occur, including the death of an unborn child, unless the individual who causes the death of the unborn child is the mother. A violation of this subsection is a class A felony. If an individual commits a violation under this subsection, the court shall impose at least three years' imprisonment. If the individual violates this section after having been previously convicted of a violation of section 39-08-01 or 39-08-03, or equivalent ordinance, the court shall impose at least ten years' imprisonment. An individual may not be prosecuted and found guilty of this and an offense under chapter 12.1-16 if the conduct arises out of the same incident.
2. An individual is guilty of criminal vehicular injury if the individual violates section 39-08-01 or equivalent ordinance and as a result that individual causes substantial bodily or serious bodily injury to another individual. Violation of this subsection is a class C felony. If an individual violates this subsection, the court shall impose at least one year's imprisonment. If the individual violates this section after having been previously convicted of a violation of section 39-08-01 or 39-08-03 or equivalent ordinance, the court shall impose at least two years' imprisonment.
3. The sentence under this section may not be suspended unless the court finds that manifest injustice would result from the imposition of the sentence. Before a sentence under this section applies, a defendant must be notified of the minimum mandatory sentence. The elements of an offense under this section are the elements of an offense for a violation of section 39-08-01 and the additional elements that create an offense in each subsection of this section.

**SECTION 9. AMENDMENT.** Section 39-08-01.3 of the North Dakota Century Code is amended and reenacted as follows:

**39-08-01.3. Alcohol-related traffic offenses - ~~Ignition interlock devices and the seizure~~ Seizure, forfeiture, and sale of motor vehicles.**

A motor vehicle owned and operated by a ~~person~~ an individual upon a highway or upon public or private areas to which the public has a right of access for vehicular use may be seized, forfeited, and sold or otherwise disposed of pursuant to an order of the court at the time of sentencing if the ~~person~~ individual is in violation of section 39-08-01, ~~39-08-01.2, or 39-08-01.4~~, or an equivalent ordinance and has been convicted of violating section 39-08-01 or an equivalent ordinance at least one other time within the ~~five~~ seven years preceding the violation. ~~The court may also require that an ignition interlock device be installed in the person's vehicle for a period of time that the court deems appropriate.~~

**SECTION 10. AMENDMENT.** Section 39-08-01.4 of the North Dakota Century Code is amended and reenacted as follows:

**39-08-01.4. Driving while under the influence of alcohol while being accompanied by a minor - Penalty.**

It is a class A misdemeanor for an individual who is at least twenty-one years of age to violate section 39-08-01 if the violation occurred while a minor was accompanying the individual in a motor vehicle. If an individual has a previous conviction for a violation of section 39-08-01.4, a violation of this section is a class C felony.

**SECTION 11. AMENDMENT.** Section 39-20-01 of the North Dakota Century Code is amended and reenacted as follows:

**39-20-01. Implied consent to determine alcohol concentration and presence of drugs.**

1. Any individual who operates a motor vehicle on a highway or on public or private areas to which the public has a right of access for vehicular use in this state is deemed to have given consent, and shall consent, subject to the provisions of this chapter, to a chemical test, or tests, of the blood, breath, or urine for the purpose of determining the alcohol concentration or presence of other drugs, or combination thereof, in the individual's blood, breath, or urine. As used in this chapter, the word "drug" means any drug or substance or combination of drugs or substances which renders an individual incapable of safely driving, and the words "chemical test" or "chemical analysis" mean any test to determine the alcohol concentration or presence of other drugs, or combination thereof, in the individual's blood, breath, or urine, approved by the director of the state crime laboratory or the director's designee under this chapter.
2. The test or tests must be administered at the direction of a law enforcement officer only after placing the individual, except individuals mentioned in section 39-20-03, under arrest and informing that individual that the individual is or will be charged with the offense of driving or being in actual physical control of a vehicle upon the public highways while under the influence of intoxicating liquor, drugs, or a combination thereof. For the purposes of this chapter, the taking into custody of a child under section 27-20-13 or an individual under twenty-one years of age satisfies the requirement of an arrest.
3. The law enforcement officer shall ~~also~~ inform the individual charged that North Dakota law requires the individual to take the test to determine whether the individual is under the influence of alcohol or drugs; that refusal to take the test directed by the law enforcement officer is a crime punishable in the same manner as driving under the influence; and that refusal of the individual to submit to the test determined appropriate will directed by the law enforcement officer may result in a revocation for a minimum of one hundred eighty days and up to four three years of the individual's driving privileges. The law enforcement officer shall determine which of the tests is to be used.

4. When an individual under the age of eighteen years is taken into custody for violating section 39-08-01 or an equivalent ordinance, the law enforcement officer shall attempt to contact the individual's parent or legal guardian to explain the cause for the custody. Neither the law enforcement officer's efforts to contact, nor any consultation with, a parent or legal guardian may be permitted to interfere with the administration of chemical testing requirements under this chapter. The law enforcement officer shall mail a notice to the parent or legal guardian of the minor within ten days after the test results are received or within ten days after the minor is taken into custody if the minor refuses to submit to testing. The notice must contain a statement of the test performed and the results of that test; or if the minor refuses to submit to the testing, a statement notifying of that fact. The attempt to contact or the contacting or notification of a parent or legal guardian is not a precondition to the admissibility of chemical test results or the finding of a consent to, or refusal of, chemical testing by the individual in custody.

**SECTION 12. AMENDMENT.** Section 39-20-01.1 of the North Dakota Century Code is amended and reenacted as follows:

**39-20-01.1. Chemical test of driver in serious bodily injury or fatal crashes.**

1. ~~Notwithstanding section 39-20-01 or 39-20-04, when~~ If the driver of a vehicle is involved in ~~an accident~~ a crash resulting in the death of another ~~person~~ individual, and there is probable cause to believe that the driver is in violation of section 39-08-01 ~~or has committed a moving violation as defined in section 39-06.1-09, the driver must be compelled by a police~~ law enforcement officer shall request the driver to submit to a chemical test or tests of the driver's blood, breath, or urine to determine the alcohol concentration or the presence of other drugs or substances, or both.
2. ~~Notwithstanding section 39-20-01 or 39-20-04, when~~ If the driver of a vehicle is involved in ~~an accident~~ a crash resulting in the serious bodily injury, as defined in section 12.1-01-04, of another ~~person~~ individual, and there is probable cause to believe that the driver is in violation of section 39-08-01, a law enforcement officer ~~may compel~~ shall request the driver to submit to a test or tests of the driver's blood, breath, or urine to determine the alcohol concentration or the presence of other drugs or substances, or both. ~~The methods and techniques established by the director of the state crime laboratory must be followed in collecting and preserving a specimen or conducting a test.~~
3. If the driver refuses to submit to a chemical test or tests of the driver's blood, breath, or urine and exigent circumstances are not present, the law enforcement officer shall request a search warrant to compel the driver to submit to a chemical test or tests of the driver's blood, breath, or urine to determine the alcohol concentration or the presence of other drugs or substances, or both.
4. The approved methods of the director of the state crime laboratory or the director's designee must be followed in collecting and preserving a sample of the driver's blood, breath, or urine and conducting a chemical test or tests to determine the alcohol concentration or the presence of other drugs, or substances, or both.

**SECTION 13. AMENDMENT.** Section 39-20-03.1 of the North Dakota Century Code is amended and reenacted as follows:

**39-20-03.1. Action following test result for a resident operator.**

If a person submits to a test under section 39-20-01, 39-20-02, or 39-20-03 and the test shows that person to have an alcohol concentration of at least eight one-hundredths of one percent by weight or, with respect to a person under

twenty-one years of age, an alcohol concentration of at least two one-hundredths of one percent by weight at the time of the performance of a chemical test within two hours after the driving or being in actual physical control of a vehicle, the following procedures apply:

1. The law enforcement officer shall immediately issue to that person a temporary operator's permit if the person then has valid operating privileges, extending driving privileges for the next twenty-five days, or until earlier terminated by the decision of a hearing officer under section 39-20-05. The law enforcement officer shall sign and note the date on the temporary operator's permit. The temporary operator's permit serves as the director's official notification to the person of the director's intent to revoke, suspend, or deny driving privileges in this state.
2. If a test administered under section 39-20-01 or 39-20-03 was by urine sample or by drawing blood as provided in section 39-20-02 and the individual tested is not a resident of an area in which the law enforcement officer has jurisdiction, the law enforcement officer shall, on receiving the analysis of the urine or blood from the director of the state crime laboratory or the director's designee and if the analysis shows that individual had an alcohol concentration of at least eight one-hundredths of one percent by weight or, with respect to an individual under twenty-one years of age, an alcohol concentration of at least two one-hundredths of one percent by weight, either proceed in accordance with subsection 1 during that individual's reappearance within the officer's jurisdiction, proceed in accordance with subsection 3, or notify a law enforcement agency having jurisdiction where the individual lives. On that notification, that law enforcement agency shall, within twenty-four hours, forward a copy of the temporary operator's permit to the law enforcement agency making the arrest or to the director. The law enforcement agency shall issue to that individual a temporary operator's permit as provided in this section, and shall sign and date the permit as provided in subsection 1.
3. If the test results indicate an alcohol concentration at or above the legal limit, the law enforcement agency making the arrest may mail a temporary operator's permit to the individual who submitted to the blood or urine test, whether or not the individual is a resident of the area in which the law enforcement officer has jurisdiction. The third day after the mailing of the temporary operator's permit is considered the date of issuance. Actual notice of the opportunity for a hearing under this section is deemed to have occurred seventy-two hours after the notice is mailed by regular mail to the address submitted by the individual to the law enforcement officer. The temporary operator's permit serves as the director's official notification to the individual of the director's intent to revoke, suspend, or deny driving privileges in this state.
4. The law enforcement officer, within five days of the issuance of the temporary operator's permit, shall forward to the director a certified written report in the form required by the director. If the individual was issued a temporary operator's permit because of the results of a test, the report must show that the officer had reasonable grounds to believe the individual had been driving or was in actual physical control of a motor vehicle while in violation of section 39-08-01, or equivalent ordinance, that the individual was lawfully arrested, that the individual was tested for alcohol concentration under this chapter, and that the results of the test show that the individual had an alcohol concentration of at least eight one-hundredths of one percent by weight or, with respect to an individual under twenty-one years of age, an alcohol concentration of at least two one-hundredths of one percent by weight. In addition to the operator's license and report, the law enforcement officer shall forward to the director a certified copy of the operational checklist and test records of a breath test and a copy of the certified copy of the analytical report for a blood or urine test for all tests administered at the direction of the officer.



5. An individual charged with a violation of section 39-08-01 or equivalent ordinance may elect to participate in the twenty-four seven sobriety program under chapter 54-12 in lieu of the administrative hearing under this chapter if the individual's driver's license is not subject to an unrelated suspension or revocation. Notwithstanding any other provision of law, an individual may not receive a temporary restricted operator's license until after fourteen days after the administrative hearing on the offense under this chapter has been waived or held, or after fourteen days of the final appeal, whichever is longer. The director shall issue a temporary restricted driver's license with the restriction the individual participate in the twenty-four seven sobriety program upon application by the individual with submission of proof of financial responsibility and proof of participation in the twenty-four seven sobriety program under chapter 54-12.

**SECTION 14. AMENDMENT.** Section 39-20-04 of the North Dakota Century Code is amended and reenacted as follows:

**39-20-04. Revocation of privilege to drive motor vehicle upon refusal to submit to testing.**

1. If a person refuses to submit to testing under section 39-20-01 or 39-20-14, none may be given, but the law enforcement officer shall immediately take possession of the person's operator's license if it is then available and shall immediately issue to that person a temporary operator's permit, if the person then has valid operating privileges, extending driving privileges for the next twenty-five days or until earlier terminated by a decision of a hearing officer under section 39-20-05. The law enforcement officer shall sign and note the date on the temporary operator's permit. The temporary operator's permit serves as the director's official notification to the person of the director's intent to revoke driving privileges in this state and of the hearing procedures under this chapter. The director, upon the receipt of that person's operator's license and a certified written report of the law enforcement officer in the form required by the director, forwarded by the officer within five days after issuing the temporary operator's permit, showing that the officer had reasonable grounds to believe the person had been driving or was in actual physical control of a motor vehicle while in violation of section 39-08-01 or equivalent ordinance or, for purposes of section 39-20-14, had reason to believe that the person committed a moving traffic violation or was involved in a traffic accident as a driver, and in conjunction with the violation or accident the officer has, through the officer's observations, formulated an opinion that the person's body contains alcohol, that the person was lawfully arrested if applicable, and that the person had refused to submit to the test or tests under section 39-20-01 or 39-20-14, shall revoke that person's license or permit to drive and any nonresident operating privilege for the appropriate period under this section, or if the person is a resident without a license or a permit to operate a motor vehicle in this state, the director shall deny to the person the issuance of a license or permit for the appropriate period under this section after the date of the alleged violation, subject to the opportunity for a prerevocation hearing and postrevocation review as provided in this chapter. In the revocation of the person's operator's license the director shall give credit for time in which the person was without an operator's license after the day of the person's refusal to submit to the test except that the director may not give credit for time in which the person retained driving privileges through a temporary operator's permit issued under this section or section 39-20-03.2. The period of revocation or denial of issuance of a license or permit under this section is:
  - a. One year~~hundred eighty days~~ if the person's driving record shows that within the ~~five~~seven years preceding the most recent violation of this section, the person's operator's license has not previously been

suspended, revoked, or issuance denied for a violation of this chapter or section 39-08-01 or equivalent ordinance.

- b. ~~Three~~Two years if the person's driving record shows that within the ~~five~~seven years preceding the most recent violation of this section, the person's operator's license has been once previously suspended, revoked, or issuance denied for a violation of this chapter or section 39-08-01 or equivalent ordinance.
  - c. ~~Four~~Three years if the person's driving record shows that within the ~~five~~seven years preceding the most recent violation of this section, the person's operator's license has at least twice previously been suspended, revoked, or issuance denied under this chapter, or for a violation of section 39-08-01 or equivalent ordinance, or any combination of the same, and the suspensions, revocations, or denials resulted from at least two separate arrests.
2. A person's driving privileges are not subject to revocation under subdivision a of subsection 1 if all of the following criteria are met:
    - a. An administrative hearing is not held under section 39-20-05;
    - b. The person mails an affidavit to the director within twenty-five days after the temporary operator's permit is issued. The affidavit must state that the person:
      - (1) Intends to voluntarily plead guilty to violating section 39-08-01 or equivalent ordinance within twenty-five days after the temporary operator's permit is issued;
      - (2) Agrees that the person's driving privileges must be suspended as provided under section 39-06.1-10;
      - (3) Acknowledges the right to a section 39-20-05 administrative hearing and section 39-20-06 judicial review and voluntarily and knowingly waives these rights; and
      - (4) Agrees that the person's driving privileges must be revoked as provided under this section without an administrative hearing or judicial review, if the person does not plead guilty within twenty-five days after the temporary operator's permit is issued, or the court does not accept the guilty plea, or the guilty plea is withdrawn;
    - c. The person pleads guilty to violating section 39-08-01 or equivalent ordinance within twenty-five days after the temporary operator's permit is issued;
    - d. The court accepts the person's guilty plea and a notice of that fact is mailed to the director within twenty-five days after the temporary operator's permit is issued; and
    - e. A copy of the final order or judgment of conviction evidencing the acceptance of the person's guilty plea is received by the director prior to the return or reinstatement of the person's driving privileges; ~~and~~
    - f. ~~The person has never been convicted under section 39-08-01 or equivalent ordinance.~~
  3. The court must mail a copy of an order granting a withdrawal of a guilty plea to violating section 39-08-01, or equivalent ordinance, to the director within ten days after it is ordered. Upon receipt of the order, the director shall immediately revoke the person's driving privileges as provided under this section without providing an administrative hearing.

**SECTION 15. AMENDMENT.** Section 39-20-04.1 of the North Dakota Century Code is amended and reenacted as follows:

**39-20-04.1. Administrative sanction for driving or being in physical control of a vehicle while having certain alcohol concentration.**

1. After the receipt of the certified report of a law enforcement officer and if no written request for hearing has been received from the arrested person under section 39-20-05, or if that hearing is requested and the findings, conclusion, and decision from the hearing confirm that the law enforcement officer had reasonable grounds to arrest the person and test results show that the arrested person was driving or in physical control of a vehicle while having an alcohol concentration of at least eight one-hundredths of one percent by weight or, with respect to a person under twenty-one years of age, an alcohol concentration of at least two one-hundredths of one percent by weight at the time of the performance of a test within two hours after driving or being in physical control of a motor vehicle, the director shall suspend the person's driving privileges as follows:
  - a. For ninety-one days if the person's driving record shows that, within the ~~five~~seven years preceding the date of the arrest, the person has not previously violated section 39-08-01 or equivalent ordinance or the person's operator's license has not previously been suspended or revoked under this chapter and the violation was for an alcohol concentration of at least eight one-hundredths of one percent by weight or, with respect to a person under twenty-one years of age, an alcohol concentration of at least two one-hundredths of one percent by weight, and under eighteen one-hundredths of one percent by weight.
  - b. For one hundred eighty days if the operator's record shows the person has not violated section 39-08-01 or equivalent ordinance within ~~five~~the seven years preceding the last violation and the last violation was for an alcohol concentration of at least eighteen one-hundredths of one percent by weight.
  - c. For three hundred sixty-five days if the person's driving record shows that, within the ~~five~~seven years preceding the date of the arrest, the person has once previously violated section 39-08-01 or equivalent ordinance or the person's operator's license has once previously been suspended or revoked under this chapter with the last violation or suspension for an alcohol concentration under eighteen one-hundredths of one percent by weight.
  - d. For two years if the person's driving record shows that within the ~~five~~seven years preceding the date of the arrest, the person's operator's license has once been suspended, revoked, or issuance denied under this chapter, or for a violation of section 39-08-01 or equivalent ordinance, with the last violation or suspension for an alcohol concentration of at least eighteen one-hundredths of one percent by weight or if the person's driving record shows that within the ~~five~~seven years preceding the date of arrest, the person's operator's license has at least twice previously been suspended, revoked, or issuance denied under this chapter, or for a violation of section 39-08-01 or equivalent ordinance, or any combination thereof, and the suspensions, revocations, or denials resulted from at least two separate arrests with the last violation or suspension for an alcohol concentration of under eighteen one-hundredths of one percent by weight.
  - e. For three years if the operator's record shows that within ~~five~~the seven years preceding the date of the arrest, the person's operator's license has at least twice previously been suspended, revoked, or issuance denied under this chapter, or for a violation of section

39-08-01 or equivalent ordinance, or any combination thereof, and the suspensions, revocations, or denials resulted from at least two separate arrests and the last violation or suspension was for an alcohol concentration of at least eighteen one-hundredths of one percent by weight.

2. In the suspension of the person's operator's license the director shall give credit for the time the person was without an operator's license after the day of the offense, except that the director may not give credit for the time the person retained driving privileges through a temporary operator's permit issued under section 39-20-03.1 or 39-20-03.2.

**SECTION 16. AMENDMENT.** Section 39-20-05 of the North Dakota Century Code is amended and reenacted as follows:

**39-20-05. Administrative hearing on request - Election to participate in the twenty-four seven sobriety program.**

1. Before issuing an order of suspension, revocation, or denial under section 39-20-04 or 39-20-04.1, the director shall afford that person an opportunity for a hearing if the person mails or communicates by other means authorized by the director a request for the hearing to the director within ten days after the date of issuance of the temporary operator's permit. Upon completion of the hearing, an individual may elect to participate in the twenty-four seven sobriety program under chapter 54-12. The hearing must be held within thirty days after the date of issuance of the temporary operator's permit. If no hearing is requested within the time limits in this section, and no affidavit is submitted within the time limits under subsection 2 of section 39-20-04, and if the individual has not provided the director with written notice of election to participate in the twenty-four seven sobriety program under chapter 54-12, the expiration of the temporary operator's permit serves as the director's official notification to the person of the revocation, suspension, or denial of driving privileges in this state.
2. If the issue to be determined by the hearing concerns license suspension for operating a motor vehicle while having an alcohol concentration of at least eight one-hundredths of one percent by weight or, with respect to an individual under twenty-one years of age, an alcohol concentration of at least two one-hundredths of one percent by weight, the hearing must be before a hearing officer assigned by the director and at a time and place designated by the director. The hearing must be recorded and its scope may cover only the issues of whether the arresting officer had reasonable grounds to believe the individual had been driving or was in actual physical control of a vehicle in violation of section 39-08-01 or equivalent ordinance or, with respect to an individual under twenty-one years of age, the individual had been driving or was in actual physical control of a vehicle while having an alcohol concentration of at least two one-hundredths of one percent by weight; whether the individual was placed under arrest, unless the individual was under twenty-one years of age and the alcohol concentration was less than eight one-hundredths of one percent by weight, then arrest is not required and is not an issue under any provision of this chapter; whether the individual was tested in accordance with section 39-20-01 or 39-20-03 and, if applicable, section 39-20-02; and whether the test results show the individual had an alcohol concentration of at least eight one-hundredths of one percent by weight or, with respect to an individual under twenty-one years of age, an alcohol concentration of at least two one-hundredths of one percent by weight. For purposes of this section, a copy of a certified copy of an analytical report of a blood or urine sample from the director of the state crime laboratory or the director's designee, or electronically posted by the director of the state crime laboratory or the director's designee on the crime laboratory information management system and certified by a law enforcement officer or individual who has authorized access to the crime laboratory management system through the criminal justice data

- information sharing system or a certified copy of the checklist and test records from a certified breath test operator, and a copy of a certified copy of a certificate of the director of the state crime laboratory designating the director's designees. establish prima facie the alcohol concentration or the presence of drugs, or a combination thereof, shown therein. Whether the individual was informed that the privilege to drive might be suspended based on the results of the test is not an issue.
3. If the issue to be determined by the hearing concerns license revocation for refusing to submit to a test under section 39-20-01 or 39-20-14, the hearing must be before a hearing officer assigned by the director at a time and place designated by the director. The hearing must be recorded. The scope of a hearing for refusing to submit to a test under section 39-20-01 may cover only the issues of whether a law enforcement officer had reasonable grounds to believe the person had been driving or was in actual physical control of a vehicle in violation of section 39-08-01 or equivalent ordinance or, with respect to a person under twenty-one years of age, the person had been driving or was in actual physical control of a vehicle while having an alcohol concentration of at least two one-hundredths of one percent by weight; whether the person was placed under arrest; and whether that person refused to submit to the test or tests. The scope of a hearing for refusing to submit to a test under section 39-20-14 may cover only the issues of whether the law enforcement officer had reason to believe the person committed a moving traffic violation or was involved in a traffic accident as a driver, whether in conjunction with the violation or the accident the officer has, through the officer's observations, formulated an opinion that the person's body contains alcohol and, whether the person refused to submit to the onsite screening test. Whether the person was informed that the privilege to drive would be revoked or denied for refusal to submit to the test or tests is not an issue.
  4. At a hearing under this section, the regularly kept records of the director and state crime laboratory may be introduced. Those records establish prima facie their contents without further foundation. For purposes of this chapter, the following are deemed regularly kept records of the director and state crime laboratory:
    - a. Any copy of a certified copy of an analytical report of a blood or urine sample, received by the director from the director of the state crime laboratory or the director's designee or electronically posted by the director of the state crime laboratory or the director's designee on the crime laboratory information management system and certified by, and received from, a law enforcement officer or an individual who has authorized access to the crime laboratory management system through the criminal justice data information sharing system, or a certified copy of the checklist and test records received by the director from a certified breath test operator; and
    - b. Any copy of a certified copy of a certificate of the director of the state crime laboratory or the director's designee relating to approved methods, devices, operators, materials, and checklists used for testing for alcohol concentration or the presence of drugs received by the director from the director of the state crime laboratory or the director's designee, or that have been electronically posted with the state crime laboratory division of the attorney general at the attorney general website; and
    - c. Any copy of a certified copy of a certificate of the director of the state crime laboratory designating the director's designees.
  5. At the close of the hearing, the hearing officer shall notify the person of the hearing officer's findings of fact, conclusions of law, and decision based on the findings and conclusions and shall immediately deliver to the person a copy of the decision. If the hearing officer does not find in

favor of the person, the copy of the decision serves as the director's official notification to the person of the revocation, suspension, or denial of driving privileges in this state. If the hearing officer finds, based on a preponderance of the evidence, that the person refused a test under section 39-20-01 or 39-20-14 or that the person had an alcohol concentration of at least eight one-hundredths of one percent by weight or, with respect to a person under twenty-one years of age, an alcohol concentration of at least two one-hundredths of one percent by weight, the hearing officer shall immediately take possession of the person's temporary operator's permit issued under this chapter. If the hearing officer does not find against the person, the hearing officer shall sign, date, and mark on the person's permit an extension of driving privileges for the next twenty days and shall return the permit to the person. The hearing officer shall report the findings, conclusions, and decisions to the director within ten days of the conclusion of the hearing. If the hearing officer has determined in favor of the person, the director shall return the person's operator's license by regular mail to the address on file with the director under section 39-06-20.

6. If the person who requested a hearing under this section fails to appear at the hearing without justification, the right to the hearing is waived, and the hearing officer's determination on license revocation, suspension, or denial will be based on the written request for hearing, law enforcement officer's report, and other evidence as may be available. The hearing officer shall, on the date for which the hearing is scheduled, mail to the person, by regular mail, at the address on file with the director under section 39-06-20, or at any other address for the person or the person's legal representative supplied in the request for hearing, a copy of the decision which serves as the director's official notification to the person of the revocation, suspension, or denial of driving privileges in this state. Even if the person for whom the hearing is scheduled fails to appear at the hearing, the hearing is deemed to have been held on the date for which it is scheduled for purposes of appeal under section 39-20-06.

**SECTION 17. AMENDMENT.** Subsection 6 of section 39-20-07 of the North Dakota Century Code is amended and reenacted as follows:

6. The director of the state crime laboratory or the director's designee may appoint, train, certify, and supervise field inspectors of breath testing equipment and its operation, and the inspectors shall report the findings of any inspection to the director of the state crime laboratory or the director's designee for appropriate action. Upon approval of the methods or devices, or both, required to perform the tests and the individuals qualified to administer them, the director of the state crime laboratory or the director's designee shall prepare, certify, and electronically post a written record of the approval with the state crime laboratory division of the attorney general at the attorney general website, and shall include in the record:
  - a. An annual register of the specific testing devices currently approved, including serial number, location, and the date and results of last inspection.
  - b. An annual register of currently qualified and certified operators of the devices, stating the date of certification and its expiration.
  - c. The operational checklist and forms prescribing the methods currently approved by the director of the state crime laboratory or the director's designee in using the devices during the administration of the tests.
  - d. The certificate of the director of the state crime laboratory designating the director's designees.

- e. The certified records electronically posted under this section may be supplemented when the director of the state crime laboratory or the director's designee determines it to be necessary, and any certified supplemental records have the same force and effect as the records that are supplemented.
- e-f. The state crime laboratory shall make the certified records required by this section available for download in a printable format on the attorney general website.

**SECTION 18. AMENDMENT.** Subsection 9 of section 39-20-07 of the North Dakota Century Code is amended and reenacted as follows:

- 9. Notwithstanding any statute or rule to the contrary, a defendant who has been found to be indigent by the court in the criminal proceeding at issue may subpoena, without cost to the defendant, the individual who conducted the chemical analysis referred to in this section to testify at the trial on the issue of the amount of alcohol concentration or presence of other drugs, or a combination thereof in the defendant's blood, breath, or urine at the time of the alleged act. If the ~~state toxicologist, the director of the state crime laboratory, or any employee of either, or designee~~ is subpoenaed to testify by a defendant who is not indigent and the defendant does not call the witness to establish relevant evidence, the court shall order the defendant to pay costs to the witness as provided in section 31-01-16. ~~An indigent defendant may also subpoena the individual who withdrew the defendant's blood by following the same procedure.~~

**SECTION 19. AMENDMENT.** Subsection 10 of section 39-20-07 of the North Dakota Century Code is amended and reenacted as follows:

- 10. ~~A signed statement from the individual medically qualified to draw the blood sample for testing as set forth in subsection 5 is prima facie evidence that the blood sample was properly drawn and no further foundation for the admission of this evidence may be required. A law enforcement officer who has witnessed an individual who is medically qualified to draw the blood sample for testing may sign a verified statement that the law enforcement officer witnessed the individual draw the blood sample and the individual followed the approved methods of the state toxicologist. Further foundation is not required to establish that the blood sample was drawn according to the approved method of the state toxicologist.~~

**SECTION 20. AMENDMENT.** Section 39-20-14 of the North Dakota Century Code is amended and reenacted as follows:

**39-20-14. Screening tests.**

- 1. Any individual who operates a motor vehicle upon the public highways of this state is deemed to have given consent to submit to an onsite screening test or tests of the individual's breath for the purpose of estimating the alcohol concentration in the individual's breath upon the request of a law enforcement officer who has reason to believe that the individual committed a moving traffic violation or was involved in a traffic accident as a driver, and in conjunction with the violation or the accident the officer has, through the officer's observations, formulated an opinion that the individual's body contains alcohol.
- 2. An individual may not be required to submit to a screening test or tests of breath while at a hospital as a patient if the medical practitioner in immediate charge of the individual's case is not first notified of the proposal to make the requirement, or objects to the test or tests on the ground that such would be prejudicial to the proper care or treatment of the patient.

3. The screening test or tests must be performed by an enforcement officer certified as a chemical test operator by the director of the state crime laboratory or the director's designee and according to methods and with devices approved by the director of the state crime laboratory or the director's designee. The results of such screening test must be used only for determining whether or not a further test shall be given under the provisions of section 39-20-01. The officer shall inform the individual that North Dakota law requires the individual to take the screening test to determine whether the individual is under the influence of alcohol, that refusal to take the screening test is a crime, and that refusal of the individual to submit to a screening test will may result in a revocation for at least one hundred eighty days and up to fourthree years of that individual's driving privileges. If such individual refuses to submit to such screening test or tests, none may be given, but such refusal is sufficient cause to revoke such individual's license or permit to drive in the same manner as provided in section 39-20-04, and a hearing as provided in section 39-20-05 and a judicial review as provided in section 39-20-06 must be available. ~~However, the~~
4. The director must not revoke an individual's driving privileges for refusing to submit to a screening test requested under this section if the individual provides a sufficient breath, blood, or urine sample for a chemical test requested under section 39-20-01 for the same incident.
5. No provisions of this section may supersede any provisions of chapter 39-20, nor may any provision of chapter 39-20 be construed to supersede this section except as provided herein.
6. For the purposes of this section, "chemical test operator" means an individual certified by the director of the state crime laboratory or the director's designee as qualified to perform analysis for alcohol in an individual's blood, breath, or urine.

**SECTION 21.** A new section to chapter 39-20 of the North Dakota Century Code is created and enacted as follows:

**Restricted license upon twenty-four seven sobriety program participation.**

Any driver suspended under this chapter may elect to participate in the twenty-four seven sobriety program under chapter 54-12. The director may issue a temporary restricted license that takes effect after fifteen days of the suspension have been served provided that the driver is not subject to any unrelated suspension. Notwithstanding any other provision of law, an individual may not receive a temporary restricted operator's license until after fourteen days after the administrative hearing on the offense under this chapter has been waived or held, or after fourteen days of the final appeal, whichever is longer.

**SECTION 22. AMENDMENT.** Section 40-05-06 of the North Dakota Century Code is amended and reenacted as follows:

**40-05-06. City fines and penalties limited.**

1. Except as provided in subsections 2 and 3, the fine or penalty for the violation of any ordinance, resolution, or regulation of a city may not exceed one thousand five hundred dollars, and the imprisonment may not exceed thirty days for one offense.
2. For every violation of a city ordinance regulating the operation or equipment of motor vehicles or regulating traffic, except those ordinances listed in section 39-06.1-05, a fee may be established, by ordinance, which may not exceed the limits, for equivalent categories of violations, set forth in section 39-06.1-06.



3. For every violation of a city ordinance enforcing the requirements of 40 CFR 403 relating to publicly owned treatment works, or prohibiting shoplifting, vandalism, criminal mischief, or malicious mischief, the penalty may not exceed a fine of one thousand dollars, imprisonment for thirty days, or both such fine and imprisonment.

This section does not prohibit the use of the sentencing alternatives, other than a fine or imprisonment, provided by section 12.1-32-02 for the violation of a city ordinance, nor does this section limit the use of deferred or suspended sentences under subsections 3 and 4 of section 12.1-32-02.

**SECTION 23. LEGISLATIVE MANAGEMENT STUDY - ADMINISTRATIVE PROCEDURE FOR DRIVING UNDER THE INFLUENCE.** During the 2013-14 interim, the legislative management shall consider studying the administrative procedure for driving under the influence of alcohol and drugs. The study must include a review of the use of ignition interlock devices and of the effect of an individual refusing to submit to chemical testing. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fourth legislative assembly.

**SECTION 24. DEPARTMENT OF HUMAN SERVICES - UNDERAGE DRINKING PREVENTION PROGRAM.** The department of human services shall facilitate the continuation of the parents listen, educate, ask, discuss program, a multiagency collaboration among the department of human services, department of transportation, North Dakota state university extension service, and North Dakota university system which has the goal of reducing the consumption of alcohol by minors by providing developmentally appropriate strategies and evidence-based underage drinking prevention services to parents and professionals throughout the state. Through this program the department of human services shall collaborate with the governor's prevention advisory council on drugs and alcohol in pursuing prevention activities.

**SECTION 25. APPROPRIATION.** There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$360,000, or so much of the sum as may be necessary, to the department of human services for the purpose of funding the underage drinking prevention program provided for under section 24 of this Act, for the biennium beginning July 1, 2013, and ending June 30, 2015.

**SECTION 26. APPROPRIATION.** There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$1,200,000, or so much of the sum as may be necessary, to the attorney general for the purpose of purchasing secure continuous remote alcohol monitors for individuals in the twenty-four seven sobriety program, for the biennium beginning July 1, 2013, and ending June 30, 2015."

Renumber accordingly

Reengrossed HB 1302 was placed on the Seventh order of business on the calendar.

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

**HB 1010, as engrossed:** Your conference committee (Sens. Wanzek, Erbele, Robinson and Reps. Sanford, Brandenburg, Guggisberg) recommends that the **SENATE RECEDE** from the Senate amendments as printed on HJ pages 1299-1300, adopt amendments as follows, and place HB 1010 on the Seventh order:

That the Senate recede from its amendments as printed on pages 1299 and 1300 of the House Journal and pages 1180 and 1181 of the Senate Journal and that Engrossed House Bill No. 1010 be amended as follows:

Page 1, replace line 11 with:

"Salaries and wages	\$6,859,830	\$1,159,684	\$8,019,514"
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Page 1, replace line 17 with:

"Total special funds \$12,004,080 (\$963,376) \$11,040,704"

Page 2, line 11, replace "ninety-five" with "ninety-six"

Page 2, line 11, replace "eight" with "seven"

Page 2, line 12, replace "sixty-three" with "ninety-four"

Page 2, line 12, replace "ninety-eight" with "ninety-nine"

Page 2, line 13, replace "seven" with "six"

Page 2, line 13, replace "thirty-nine" with "ninety-eight"

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

**House Bill No. 1010 - Insurance Department - Conference Committee Action**

	Executive Budget	House Version	Conference Committee Changes	Conference Committee Version	Senate Version	Comparison to Senate
Salaries and wages	\$8,260,726	\$7,884,150	\$135,364	\$8,019,514	\$8,298,229	(\$278,715)
Operating expenses	2,858,008	2,858,008		2,858,008	2,858,008	
Grants	7,840,000					
Accrued leave payments		163,182		163,182		163,182
Total all funds	\$18,958,734	\$10,905,340	\$135,364	\$11,040,704	\$11,156,237	(\$115,533)
Less estimated income	18,958,734	10,905,340	135,364	11,040,704	11,156,237	(115,533)
General fund	\$0	\$0	\$0	\$0	\$0	\$0
FTE	49.50	49.50	0.00	49.50	49.50	0.00

**Department No. 401 - Insurance Department - Detail of Conference Committee Changes**

	Removes House Changes to Executive Compensation Package <sup>1</sup>	Adjusts State Employee Compensation and Benefits Package <sup>2</sup>	Total Conference Committee Changes
Salaries and wages	\$250,897	(\$115,533)	\$135,364
Operating expenses			
Grants			
Accrued leave payments			
Total all funds	\$250,897	(\$115,533)	\$135,364
Less estimated income	250,897	(115,533)	135,364
General fund	\$0	\$0	\$0
FTE	0.00	0.00	0.00

<sup>1</sup> Changes made by the House to the executive compensation package are removed.

<sup>2</sup> This amendment adjusts the state employee compensation and benefits package as follows:

- Reduces the performance component from 3 to 5 percent per year to 3 to 5 percent for the first year of the biennium and 2 to 4 percent for the second year of the biennium.
- Reduces the market component from 2 to 4 percent per year to 1 to 2 percent per year for employees below the midpoint of their salary range.
- Reduces funding for retirement contribution increases to provide for a 1 percent state and 1 percent employee increase beginning in January 2014 and no increase in January 2015.

Section 6 is changed to reduce the Insurance Commissioner's annual salary increase from a 4 percent annual increase to a 4 percent increase on July 1, 2013, and a 3 percent increase on July 1, 2014. The House provided annual salary increases of 3 percent. The Senate provided annual salary increases of 4 percent, the same as the executive recommendation.

Engrossed HB 1010 was placed on the Seventh order of business on the calendar.

#### REPORT OF CONFERENCE COMMITTEE

**HB 1014, as engrossed:** Your conference committee (Sens. Wanzek, Holmberg, Robinson and Reps. J. Nelson, Kreidt, Holman) recommends that the **SENATE RECEDE** from the Senate amendments as printed on HJ page 1041, adopt amendments as follows, and place HB 1014 on the Seventh order:

That the Senate recede from its amendments as printed on page 1041 of the House Journal and pages 784 and 785 of the Senate Journal and that House Bill No. 1014 be amended as follows:

Page 1, replace lines 12 through 16 with:

"Protection and advocacy operations	\$5,104,253	\$567,331	\$5,671,584
Accrued leave payments	<u>0</u>	<u>93,590</u>	<u>93,590</u>
Total all funds	\$5,104,253	\$660,921	\$5,765,174
Less estimated income	<u>3,118,888</u>	<u>114,724</u>	<u>3,233,612</u>
Total general fund	\$1,985,365	\$546,197	\$2,531,562"

ReNUMBER accordingly

#### STATEMENT OF PURPOSE OF AMENDMENT:

##### House Bill No. 1014 - Protection and Advocacy Project - Conference Committee Action

	Executive Budget	House Version	Conference Committee Changes	Conference Committee Version	Senate Version	Comparison to Senate
Protection and Advocacy Project	\$5,886,347					
Accrued leave payments		93,590		93,590		93,590
Protection and advocacy operations		5,573,188	98,396	5,671,584	5,891,579	(219,995)
Total all funds	\$5,886,347	\$5,666,778	\$98,396	\$5,765,174	\$5,891,579	(\$126,405)
Less estimated income	<u>3,233,612</u>	<u>3,233,612</u>	<u>0</u>	<u>3,233,612</u>	<u>3,233,612</u>	<u>0</u>
General fund	\$2,652,735	\$2,433,166	\$98,396	\$2,531,562	\$2,657,967	(\$126,405)
FTE	27.50	27.50	0.00	27.50	27.50	0.00

##### Department No. 360 - Protection and Advocacy Project - Detail of Conference Committee Changes

	Removes House Changes to Executive Compensation Package <sup>1</sup>	Adjusts State Employee Compensation and Benefits Package <sup>2</sup>	Total Conference Committee Changes
Protection and Advocacy Project			
Accrued leave payments			
Protection and advocacy operations	224,801	(126,405)	98,396
Total all funds	\$224,801	(\$126,405)	\$98,396
Less estimated income	<u>0</u>	<u>0</u>	<u>0</u>
General fund	\$224,801	(\$126,405)	\$98,396
FTE	0.00	0.00	0.00

<sup>1</sup> Changes made by the House to the executive compensation package are removed.

<sup>2</sup> This amendment adjusts the state employee compensation and benefits package as follows:

- Reduces the performance component from 3 to 5 percent per year to 3 to 5 percent for the first year of the biennium and 2 to 4 percent for the second year of the biennium.
- Reduces the market component from 2 to 4 percent per year to 1 to 2 percent per year for employees below the midpoint of their salary range.
- Reduces funding for retirement contribution increases to provide for a 1 percent state and 1 percent employee increase beginning in January 2014 and no increase in January 2015.

Engrossed HB 1014 was placed on the Seventh order of business on the calendar.

#### **APPOINTMENT OF CONFERENCE COMMITTEE**

**SEN. KLEIN MOVED** that the Senate Conference Committee on SB 2219 be dissolved and that a new conference committee be appointed, which motion prevailed.

**THE PRESIDENT APPOINTED** as a new Conference Committee on:

**SB 2219:** Sens. Burckhard, Krebsbach, Murphy

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

**SEN. GRINDBERG MOVED** that the conference committee report on SB 2016 be adopted, which motion prevailed on a voice vote.

SB 2016, as amended, was placed on the Eleventh order of business.

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

**SB 2016:** A BILL for an Act to provide an appropriation for defraying the expenses of job service North Dakota.

#### **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; Andrist; Armstrong; Axness; Berry; Bowman; Burckhard; Campbell; Carlisle; Cook; Dever; Dotzenrod; Erbele; Flakoll; Grabinger; Grindberg; Heckaman; Hogue; Holmberg; Kilzer; Klein; Krebsbach; Laffen; Larsen; Lee, G.; Lee, J.; Luick; Lyson; Marcellais; Mathern; Miller; Murphy; Nelson; O'Connell; Oehlke; Poolman; Robinson; Schaible; Schneider; Sinner; Sitte; Sorvaag; Triplett; Unruh; Wanzek; Wardner; Warner

Engrossed SB 2016 passed.

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

**SEN. KILZER MOVED** that the conference committee report on Engrossed SB 2024 be adopted, which motion prevailed on a voice vote.

Engrossed SB 2024, as amended, was placed on the Eleventh order of business.

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

**SB 2024:** A BILL for an Act to provide an appropriation for defraying the expenses of the comprehensive tobacco control advisory committee; 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 42 YEAS, 5 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Anderson; Andrist; Axness; Berry; Bowman; Burckhard; Campbell; Carlisle; Cook; Dever; Dotzenrod; Erbele; Flakoll; Grabinger; Grindberg; Heckaman; Hogue; Holmberg; Kilzer; Klein; Krebsbach; Laffen; Lee, G.; Lee, J.; Lyson; Marcellais; Mathern; Murphy; Nelson; O'Connell; Oehlke; Poolman; Robinson; Schneider; Sinner; Sitte; Sorvaag; Triplett; Unruh; Wanzek; Wardner; Warner

**NAYS:** Armstrong; Larsen; Luick; Miller; Schaible

Reengrossed SB 2024 passed.

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

**SEN. DEVER MOVED** that the conference committee report on SB 2226 be adopted, which motion prevailed on a voice vote.

SB 2226, as amended, was placed on the Eleventh order of business.

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

**SB 2226:** A BILL for an Act to amend and reenact section 23-01.2-04 of the North Dakota Century Code, relating to a medical director; and to provide an appropriation for the North Dakota trauma system.

#### **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; Andrist; Armstrong; Axness; Berry; Bowman; Burckhard; Campbell; Carlisle; Cook; Dever; Dotzenrod; Erbele; Flakoll; Grabinger; Grindberg; Heckaman; Hogue; Holmberg; Kilzer; Klein; Krebsbach; Laffen; Larsen; Lee, G.; Lee, J.; Luick; Lyson; Marcellais; Mathern; Miller; Murphy; Nelson; O'Connell; Oehlke; Poolman; Robinson; Schaible; Schneider; Sinner; Sitte; Sorvaag; Triplett; Unruh; Wanzek; Wardner; Warner

Engrossed SB 2226 passed.

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

**SEN. KILZER MOVED** that the conference committee report on Engrossed SB 2022 be adopted, which motion prevailed on a voice vote.

Engrossed SB 2022, as amended, was placed on the Eleventh order of business.

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

**SB 2022:** A BILL for an Act to provide an appropriation for defraying the expenses of the commission on legal counsel for indigents; to amend and reenact subsection 1 of section 29-07-01.1 of the North Dakota Century Code, relating to the application fee for indigent defense services; and to provide legislative intent.

#### **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; Andrist; Armstrong; Axness; Berry; Bowman; Burckhard; Campbell; Carlisle; Cook; Dever; Dotzenrod; Erbele; Flakoll; Grabinger; Grindberg; Heckaman; Hogue; Holmberg; Kilzer; Klein; Krebsbach; Laffen; Larsen; Lee, G.; Lee, J.; Luick; Lyson; Marcellais; Mathern; Miller; Murphy; Nelson; O'Connell; Oehlke; Poolman; Robinson; Schaible; Schneider; Sinner; Sitte; Sorvaag; Triplett; Unruh; Wanzek; Wardner; Warner

Reengrossed SB 2022 passed.

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**CONSIDERATION OF CONFERENCE COMMITTEE REPORT**

**SEN. CARLISLE MOVED** that the conference committee report on Engrossed HB 1002 be adopted, which motion prevailed on a voice vote.

Engrossed HB 1002, as amended, was placed on the Fourteenth order of business.

**SECOND READING OF HOUSE BILL**

**HB 1002:** A BILL for an Act to provide an appropriation for defraying the expenses of the office of the secretary of state and public printing; to provide exemptions; to amend and reenact section 54-09-05 of the North Dakota Century Code, relating to the salary of the secretary of state; and to provide for reports to the budget section.

**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; Andrist; Armstrong; Axness; Berry; Bowman; Burckhard; Campbell; Carlisle; Cook; Dever; Dotzenrod; Erbele; Flakoll; Grabinger; Grindberg; Heckaman; Hogue; Holmberg; Kilzer; Klein; Krebsbach; Laffen; Larsen; Lee, G.; Lee, J.; Luick; Lyson; Marcellais; Mathern; Miller; Murphy; Nelson; O'Connell; Oehlke; Poolman; Robinson; Schaible; Schneider; Sinner; Sitte; Sorvaag; Triplett; Unruh; Wanzek; Wardner; Warner

Engrossed HB 1002, as amended, passed.

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**CONSIDERATION OF CONFERENCE COMMITTEE REPORT**

**SEN. WANZEK MOVED** that the conference committee report on Engrossed HB 1021 be adopted, which motion prevailed on a voice vote.

Engrossed HB 1021, as amended, was placed on the Fourteenth order of business.

**SECOND READING OF HOUSE BILL**

**HB 1021:** A BILL for an Act to provide an appropriation for defraying the expenses of workforce safety and insurance; to provide for litigation contingency and settlement funds; and to provide for information technology projects and business process analysis.

**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:** Andrist; Armstrong; Axness; Berry; Bowman; Burckhard; Campbell; Carlisle; Cook; Dever; Dotzenrod; Erbele; Flakoll; Grabinger; Grindberg; Heckaman; Hogue; Holmberg; Kilzer; Klein; Krebsbach; Laffen; Larsen; Lee, G.; Lee, J.; Luick; Lyson; Marcellais; Mathern; Miller; Murphy; Nelson; O'Connell; Poolman; Robinson; Schaible; Schneider; Sinner; Sitte; Sorvaag; Triplett; Unruh; Wanzek; Wardner; Warner

**NAYS:** Anderson; Oehlke

Engrossed HB 1021, as amended, passed.

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**CONSIDERATION OF CONFERENCE COMMITTEE REPORT**

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

Engrossed 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 various state retirement and investment agencies; and to provide various transfers.

**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; Andrist; Armstrong; Axness; Berry; Bowman; Burckhard; Campbell; Carlisle; Cook; Dever; Dotzenrod; Erbele; Flakoll; Grabinger; Grindberg; Heckaman; Hogue; Holmberg; Kilzer; Klein; Krebsbach; Laffen; Larsen; Lee, G.; Lee, J.; Luick; Lyson; Marcellais; Mathern; Miller; Murphy; Nelson; O'Connell; Oehlke; Poolman; Robinson; Schaible; Schneider; Sinner; Sitte; Sorvaag; Triplett; Unruh; Wanzek; Wardner; Warner

Engrossed HB 1022, as amended, passed.

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**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:

**SB 2003:** Reps. Skarphol; Martinson; Williams

**SB 2200:** Reps. Skarphol; Dosch; Williams

**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 2298:** Reps. Ruby; Keiser; M. Nelson

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

**MR. PRESIDENT:** The House has concurred in the Senate amendments and subsequently passed: HCR 3047.

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

**MR. PRESIDENT:** The Speaker has appointed Rep. Williams to replace Rep. Nathe on the Conference Committee on HB 1258.

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

**MR. SPEAKER:** The conference committee was unable to agree, and the President has appointed as a new conference committee to act with a like committee from the House on:

**SB 2219:** Sens. Burckhard; Krebsbach; Murphy

**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 2016, SB 2022, SB 2024, SB 2226.

**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 1002, HB 1021, HB 1022.

**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 1002, HB 1021, HB 1022.

**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 1010, HB 1014, HB 1302.

**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 2005, SB 2006, SB 2008, SB 2010, SB 2017, SB 2023, SB 2160, SB 2211, SB 2267.

**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 2072.

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

**MR. SPEAKER:** Your signature is respectfully requested on: SB 2030, SB 2074, SB 2210, SB 2243, SB 2338.

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

**MR. PRESIDENT:** Your signature is respectfully requested on: HB 1033, HB 1099, HB 1112, HB 1128, HB 1136, HB 1272, HB 1289, HB 1291, HB 1306, HB 1405.

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

**MR. PRESIDENT:** Your signature is respectfully requested on: HB 1300, HCR 3006.

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

**MR. SPEAKER:** The President has signed: HB 1033, HB 1099, HB 1112, HB 1128, HB 1136, HB 1272, HB 1289, HB 1291, HB 1306, HB 1405.

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

**MR. SPEAKER:** The President has signed: HB 1300, HCR 3006.

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

**MR. PRESIDENT:** The Speaker has signed: HB 1134.

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

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

**SB 2298:** Sens. Klein; Laffen; Murphy

**COMMUNICATION FROM GOVERNOR JACK DALRYMPLE**

This is to inform you that on April 24, 2013, I have signed the following: SB 2095, SB 2115, SB 2126, SB 2129, SB 2144, SB 2152, SB 2162, SB 2175, SB 2213, SB 2218, SB 2330, SB 2339, and SB 2344.

**MOTION**

**SEN. KLEIN MOVED** that the Senate be on the Fourth, Fifth, and Thirteenth orders of business and at the conclusion of those orders, the Senate stand adjourned until 8:00 a.m., Thursday, April 25, 2013, which motion prevailed.

**REPORT OF CONFERENCE COMMITTEE**

**SB 2094, as engrossed:** Your conference committee (Sens. Schaible, Poolman, Marcellais and Reps. Heilman, Meier, Mock) recommends that the **HOUSE RECEDE** from the House amendments as printed on SJ pages 918-1007, adopt amendments as follows, and place SB 2094 on the Seventh order:

That the House recede from its amendments as printed on page 918 of the Senate Journal and page 1007 of the House Journal and that Engrossed Senate Bill No. 2094 be amended as follows:

Page 1, after line 8 insert:

"1"

Page 1, line 14, overstrike the colon

Page 1, line 15, overstrike "1. Documented extraordinary circumstances;"



Page 1, line 15, remove "and"

Page 1, line 16, overstrike "2. Student" and insert immediately thereafter "student"

Page 1, line 16, remove the overstrike over "~~or formal action by~~"

Page 1, line 17, remove the overstrike over "~~an institution's student governing board or committee~~"

Page 1, after line 17, insert:

- "2. a. Before mandatory fees on students may be increased to support the construction or renovation of a campus building valued at more than one million dollars, the use must be approved by a majority of the students voting on the question at a campuswide election.
- b. This subsection does not apply to any construction or renovation for which the use of mandatory fees was authorized before July 1, 2013."

Renumber accordingly

Engrossed SB 2094 was placed on the Seventh order of business on the calendar.

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

**William R. Horton, Secretary**

