

JOURNAL OF THE SENATE

Fifty-ninth Legislative Assembly

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Bismarck, April 21, 2005

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

The prayer was offered by Pastor Rich Wyatt, Living Hope Church of the Nazarene.

The roll was called and all members were present.

A quorum was declared by the President.

CONSIDERATION OF CONFERENCE COMMITTEE REPORT

SEN. CHRISTMANN MOVED that the conference committee report on Engrossed SB 2011 as printed on SJ pages 1535-1537 be adopted, which motion prevailed on a voice vote.

Engrossed SB 2011, as amended, was placed on the Eleventh order.

SECOND READING OF SENATE BILL

SB 2011: A BILL for an Act to provide an appropriation for defraying the expenses of the highway patrol.

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: Andrist; Bercier; Bowman; Brown; Christmann; Cook; Dever; Erbele; Espegard; Every; Fairfield; Fischer; Flakoll; Freborg; Grindberg; Hacker; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Mutch; Nelson; Nething; O'Connell; Robinson; Schobinger; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Triplett; Urlacher; Wardner; Warner

Reengrossed SB 2011 passed and the title was agreed to.

DELIVERY OF ENROLLED BILLS AND RESOLUTIONS

The following bills were delivered to the Governor for approval on April 21, 2005: SB 2361, SB 2388.

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 2011.

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

MR. SPEAKER: Your signature is respectfully requested on: SB 2050, SB 2359.

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

MR. SPEAKER: The President has signed: HB 1459.

MESSAGE TO THE SENATE FROM THE HOUSE (BRADLEY C. FAY, CHIEF CLERK)

MR. PRESIDENT: The House has adopted the conference committee report and subsequently passed: SB 2050, SB 2359.

MESSAGE TO THE SENATE FROM THE HOUSE (BRADLEY C. FAY, CHIEF CLERK)

MR. PRESIDENT: The Speaker has signed: SB 2204, SB 2217, SB 2270, SB 2274.

MESSAGE TO THE SENATE FROM THE HOUSE (BRADLEY C. FAY, CHIEF CLERK)

MR. PRESIDENT: The Speaker has signed: HB 1314, HB 1478, HB 1496, HB 1526.

MESSAGE TO THE SENATE FROM THE HOUSE (BRADLEY C. FAY, CHIEF CLERK)

MR. PRESIDENT: Your signature is respectfully requested on: HCR 3060.

MOTION

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

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

REPORT OF CONFERENCE COMMITTEE

SB 2020, as engrossed: Your conference committee (Sens. Bowman, Holmberg, Lindaas and Reps. Brusegaard, Rennerfeldt, Gulleon) recommends that the **HOUSE RECEDE** from the House amendments on SJ pages 1149-1154, adopt amendments as follows, and place SB 2020 on the Seventh order:

That the House recede from its amendments as printed on pages 1149-1154 of the Senate Journal and pages 1353-1359 of the House Journal and that Engrossed Senate Bill No. 2020 be amended as follows:

Page 1, line 3, remove the second "to"

Page 1, line 4, remove "provide for a legislative council study;"

Page 3, line 5, replace "3,750,622" with "3,713,370"

Page 3, line 6, replace "108,747" with "58,559"

Page 3, line 7, replace "3,859,369" with "3,771,929"

Page 3, line 8, replace "2,451,781" with "2,427,076"

Page 3, line 9, replace "1,407,588" with "1,344,853"

Page 3, line 12, replace "370,600" with "369,602"

Page 3, line 13, replace "211,005" with "210,506"

Page 3, line 14, replace "159,595" with "159,096"

Page 3, line 17, replace "4,886,023" with "5,180,440"

Page 3, line 18, replace "4,869,499" with "4,863,538"

Page 3, line 19, replace "16,524" with "316,902"

Page 3, line 22, replace "7,093,956" with "7,531,596"

Page 3, line 23, replace "5,235,325" with "5,216,848"

Page 3, line 24, replace "1,858,631" with "2,314,748"

Page 3, line 27, replace "328,589" with "266,660"

Page 3, line 28, replace "311,847" with "310,855"

Page 3, line 29, replace "281,547" with "280,431"

Page 3, line 30, replace "45,601" with "44,611"

Page 3, line 31, replace "518,220" with "516,625"

Page 4, line 1, replace "562,800" with "621,608"

Page 4, line 2, replace "915,392" with "912,972"

Page 4, line 3, replace "2,963,996" with "2,953,762"

Page 4, line 4, replace "2,096,169" with "2,093,700"

Page 4, line 5, replace "867,827" with "860,062"

Page 4, line 8, replace "31,452" with "31,078"

Page 4, line 9, replace "31,452" with "31,078"

Page 4, line 10, replace "4,310,165" with "4,995,661"

Page 4, line 11, replace "14,895,231" with "14,842,746"

Page 4, line 12, replace "19,205,396" with "19,838,407"

Page 4, line 22, replace "37,318,219" with "37,280,967"

Page 4, line 23, replace "887,426" with "837,238"

Page 4, line 24, replace "38,205,645" with "38,118,205"

Page 4, line 25, replace "22,938,611" with "22,913,906"

Page 4, line 26, replace "15,267,034" with "15,204,299"

Page 4, line 29, replace "1,893,947" with "1,892,949"

Page 4, line 30, replace "988,350" with "987,851"

Page 4, line 31, replace "905,597" with "905,098"

Page 5, line 3, replace "15,730,773" with "16,025,190"

Page 5, line 4, replace "15,231,150" with "15,225,189"

Page 5, line 5, replace "499,623" with "800,001"

Page 5, line 8, replace "67,611,170" with "68,048,810"

Page 5, line 9, replace "37,541,799" with "37,523,322"

Page 5, line 10, replace "30,069,371" with "30,525,488"

Page 5, line 13, replace "5,609,723" with "5,547,794"

Page 5, line 14, replace "1,979,234" with "1,978,242"

Page 5, line 15, replace "1,803,022" with "1,801,906"

Page 5, line 16, replace "1,328,486" with "1,327,496"

Page 5, line 17, replace "2,230,730" with "2,229,135"

Page 5, line 18, replace "2,205,875" with "2,264,683"

Page 5, line 19, replace "4,242,008" with "4,239,588"

Page 5, line 20, replace "19,399,078" with "19,388,844"

Page 5, line 21, replace "11,063,572" with "11,061,103"

Page 5, line 22, replace "8,335,506" with "8,327,741"

Page 5, line 25, replace "1,198,056" with "1,197,682"

Page 5, line 26, replace "1,198,056" with "1,197,682"

Page 5, line 27, replace "55,077,131" with "55,762,627"

Page 5, line 28, replace "88,961,538" with "88,909,053"

Page 5, line 29, replace "144,038,669" with "144,671,680"

Page 6, replace lines 27 through 31 with:

"SECTION 9. LEGISLATIVE INTENT - BEEF SYSTEMS CENTER OF EXCELLENCE POSITIONS. It is the intent of the fifty-ninth legislative assembly that

the two full-time equivalent positions for the beef systems center of excellence not be filled and the related funding for salaries and wages not be spent until the state board of agricultural research and education enters into a business partnership agreement for the beef systems center of excellence.

SECTION 10. LEGISLATIVE INTENT - WILLISTON RESEARCH CENTER MACHINE STORAGE SHED. It is the intent of the fifty-ninth legislative assembly that an amount of up to \$100,000 of the appropriation provided in subdivision 4 of section 3 of this Act for extraordinary repairs be used to construct an equipment storage facility at the Williston research center."

Page 7, remove lines 1 and 2

Page 7, line 6, replace "10" with "11"

ReNUMBER accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

Senate Bill No. 2020 - Summary of Conference Committee Action

	EXECUTIVE BUDGET	SENATE VERSION	CONFERENCE COMMITTEE CHANGES	CONFERENCE COMMITTEE VERSION	HOUSE VERSION	COMPARISON TO HOUSE
Transportation Institute						
Total all funds	\$15,764,073	\$15,730,773	\$294,417	\$16,025,190	\$16,024,658	\$532
Less estimated income	15,263,028	15,231,150	(5,961)	15,225,189	15,225,189	
General fund	\$501,045	\$499,623	\$300,378	\$800,001	\$799,469	\$532
Branch Research Centers						
Total all funds	\$19,247,791	\$19,399,078	(\$10,234)	\$19,388,844	\$19,388,844	\$0
Less estimated income	11,072,534	11,063,572	(2,469)	11,061,103	11,061,103	
General fund	\$8,175,257	\$8,335,506	(\$7,765)	\$8,327,741	\$8,327,741	\$0
NDSU Extension Service						
Total all funds	\$38,230,290	\$38,205,645	(\$87,440)	\$38,118,205	\$38,068,205	\$50,000
Less estimated income	22,989,228	22,938,611	(24,705)	22,913,906	22,913,906	
General fund	\$15,241,062	\$15,267,034	(\$62,735)	\$15,204,299	\$15,154,299	\$50,000
Northern Crops Institute						
Total all funds	\$1,763,585	\$1,893,947	(\$998)	\$1,892,949	\$1,892,949	\$0
Less estimated income	950,741	988,350	(499)	987,851	987,851	
General fund	\$812,844	\$905,597	(\$499)	\$905,098	\$905,098	\$0
Main Research Station						
Total all funds	\$66,572,180	\$67,611,170	\$437,640	\$68,048,810	\$68,500,707	(\$451,897)
Less estimated income	36,810,218	37,541,799	(18,477)	37,523,322	37,523,322	
General fund	\$29,761,962	\$30,069,371	\$456,117	\$30,525,488	\$30,977,385	(\$451,897)
Agronomy Seed Farm						
Total all funds	\$1,199,685	\$1,198,056	(\$374)	\$1,197,682	\$1,197,682	\$0
Less estimated income	1,199,685	1,198,056	(374)	1,197,682	1,197,682	
General fund	\$0	\$0	\$0	\$0	\$0	\$0
Bill Total						
Total all funds	\$142,777,604	\$144,038,669	\$633,011	\$144,671,680	\$145,073,045	(\$401,365)
Less estimated income	88,285,434	88,961,538	(52,485)	88,909,053	88,909,053	
General fund	\$54,492,170	\$55,077,131	\$685,496	\$55,762,627	\$56,163,992	(\$401,365)

Senate Bill No. 2020 - Transportation Institute - Conference Committee Action

	EXECUTIVE BUDGET	SENATE VERSION	CONFERENCE COMMITTEE CHANGES	CONFERENCE COMMITTEE VERSION	HOUSE VERSION	COMPARISON TO HOUSE
Transportation Institute	\$15,764,073	\$15,730,773	\$294,417	\$16,025,190	\$16,024,658	\$532
Total all funds	\$15,764,073	\$15,730,773	\$294,417	\$16,025,190	\$16,024,658	\$532
Less estimated income	15,263,028	15,231,150	(5,961)	15,225,189	15,225,189	
General fund	\$501,045	\$499,623	\$300,378	\$800,001	\$799,469	\$532
FTE	48.50	48.50	0.00	48.50	48.50	0.00

Dept. 627 - Transportation Institute - Detail of Conference Committee Changes

	REDUCES RECOMMENDED FUNDING FOR HEALTH INSURANCE ¹	ADDS FUNDING FOR REGIONAL UNIVERSITY TRANSPORTATION CENTER STATUS ²	TOTAL CONFERENCE COMMITTEE CHANGES
Transportation Institute	(\$6,115)	\$300,532	\$294,417
Total all funds	(\$6,115)	\$300,532	\$294,417

Less estimated income	<u>(5,961)</u>	_____	<u>(5,961)</u>
General fund	(\$154)	\$300,532	\$300,378
FTE	0.00	0.00	0.00

¹ This amendment reduces funding for state employee health insurance premiums from \$559.15 to \$553.95 per month.

² The conference committee agreed with the House amendment to increase the general fund appropriation for the Upper Great Plains Transportation Institute to meet the required funded budget guidelines to qualify as a regional university transportation center. An additional \$532 was added by the conference committee as compared to the House version.

Senate Bill No. 2020 - Branch Research Centers - Conference Committee Action

	EXECUTIVE BUDGET	SENATE VERSION	CONFERENCE COMMITTEE CHANGES	CONFERENCE COMMITTEE VERSION	HOUSE VERSION	COMPARISON TO HOUSE
Dickinson Research Center	\$5,554,757	\$5,609,723	(\$61,929)	\$5,547,794	\$5,607,593	(\$59,799)
Central Grasslands Research Center	1,982,689	1,979,234	(992)	1,978,242	1,978,242	
Hettinger Research Center	1,798,821	1,803,022	(1,116)	1,801,906	1,801,906	
Langdon Research Center	1,332,702	1,328,486	(990)	1,327,496	1,327,496	
North Central Research Center	2,236,320	2,230,730	(1,595)	2,229,135	2,229,135	
Williston Research Center	2,091,298	2,205,875	58,808	2,264,683	2,204,884	59,799
Carrington Research Center	4,251,204	4,242,008	(2,420)	4,239,588	4,239,588	
Total all funds	\$19,247,791	\$19,399,078	(\$10,234)	\$19,388,844	\$19,388,844	\$0
Less estimated income	<u>11,072,534</u>	<u>11,063,572</u>	<u>(2,469)</u>	<u>11,061,103</u>	<u>11,061,103</u>	_____
General fund	\$8,175,257	\$8,335,506	(\$7,765)	\$8,327,741	\$8,327,741	\$0
FTE	77.41	77.41	0.00	77.41	77.41	0.00

Dept. 628 - Branch Research Centers - Detail of Conference Committee Changes

	REDUCES RECOMMENDED FUNDING FOR HEALTH INSURANCE ¹	CHANGES FUNDING FOR MALTING BARLEY PROJECTS ²	TOTAL CONFERENCE COMMITTEE CHANGES
Dickinson Research Center	(\$2,130)	(\$59,799)	(\$61,929)
Central Grasslands Research Center	(992)		(992)
Hettinger Research Center	(1,116)		(1,116)
Langdon Research Center	(990)		(990)
North Central Research Center	(1,595)		(1,595)
Williston Research Center	(991)	59,799	58,808
Carrington Research Center	<u>(2,420)</u>	_____	<u>(2,420)</u>
Total all funds	(\$10,234)	\$0	(\$10,234)
Less estimated income	<u>(2,469)</u>	_____	<u>(2,469)</u>
General fund	(\$7,765)	\$0	(\$7,765)
FTE	0.00	0.00	0.00

¹ This amendment reduces funding for state employee health insurance premiums from \$559.15 to \$553.95 per month.

² The conference committee reduced the general fund appropriation for the western malting barley project at the Dickinson Research Center. The total funding at the Dickinson Research Center for the malting barley project is \$62,845, \$3,046 from the general fund and \$59,799 from special funds. The funding was moved to the Williston Research Center for ethanol malting barley research.

Senate Bill No. 2020 - NDSU Extension Service - Conference Committee Action

	EXECUTIVE BUDGET	SENATE VERSION	CONFERENCE COMMITTEE CHANGES	CONFERENCE COMMITTEE VERSION	HOUSE VERSION	COMPARISON TO HOUSE
Extension Service	\$37,442,255	\$37,318,219	(\$37,252)	\$37,280,967	\$37,280,967	
Soil Conservation Committee	788,035	887,426	(50,188)	837,238	787,238	\$50,000
Total all funds	\$38,230,290	\$38,205,645	(\$87,440)	\$38,118,205	\$38,068,205	\$50,000
Less estimated income	<u>22,989,228</u>	<u>22,938,611</u>	<u>(24,705)</u>	<u>22,913,906</u>	<u>22,913,906</u>	_____
General fund	\$15,241,062	\$15,267,034	(\$62,735)	\$15,204,299	\$15,154,299	\$50,000
FTE	266.10	266.10	0.00	266.10	266.10	0.00

Dept. 630 - NDSU Extension Service - Detail of Conference Committee Changes

REDUCES RECOMMENDED FUNDING FOR	REDUCES FUNDING FOR SOIL	TOTAL CONFERENCE
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	HEALTH INSURANCE ¹	CONSERVATION DISTRICTS ²	COMMITTEE CHANGES
Extension Service	(\$37,252)		(\$37,252)
Soil Conservation Committee	(188)	(\$50,000)	(50,188)
Total all funds	(\$37,440)	(\$50,000)	(\$87,440)
Less estimated income	(24,705)		(24,705)
General fund	(\$12,735)	(\$50,000)	(\$62,735)
FTE	0.00	0.00	0.00

¹ This amendment reduces funding for state employee health insurance premiums from \$559.15 to \$553.95 per month.

² The conference committee added \$50,000 for soil conservation districts. The Senate version added \$100,000, which was removed by the House.

Senate Bill No. 2020 - Northern Crops Institute - Conference Committee Action

	EXECUTIVE BUDGET	SENATE VERSION	CONFERENCE COMMITTEE CHANGES	CONFERENCE COMMITTEE VERSION	HOUSE VERSION	COMPARISON TO HOUSE
Northern Crops Institute	<u>\$1,763,585</u>	<u>\$1,893,947</u>	<u>(\$998)</u>	<u>\$1,892,949</u>	<u>\$1,892,949</u>	
Total all funds	\$1,763,585	\$1,893,947	(\$998)	\$1,892,949	\$1,892,949	\$0
Less estimated income	<u>950,741</u>	<u>988,350</u>	<u>(499)</u>	<u>987,851</u>	<u>987,851</u>	
General fund	\$812,844	\$905,597	(\$499)	\$905,098	\$905,098	\$0
FTE	7.62	8.62	0.00	8.62	8.62	0.00

Dept. 638 - Northern Crops Institute - Detail of Conference Committee Changes

	REDUCES RECOMMENDED FUNDING FOR HEALTH INSURANCE ¹	TOTAL CONFERENCE COMMITTEE CHANGES
Northern Crops Institute	<u>(\$998)</u>	<u>(\$998)</u>
Total all funds	(\$998)	(\$998)
Less estimated income	<u>(499)</u>	<u>(499)</u>
General fund	(\$499)	(\$499)
FTE	0.00	0.00

¹ This amendment reduces funding for state employee health insurance premiums from \$559.15 to \$553.95 per month.

Senate Bill No. 2020 - Main Research Station - Conference Committee Action

	EXECUTIVE BUDGET	SENATE VERSION	CONFERENCE COMMITTEE CHANGES	CONFERENCE COMMITTEE VERSION	HOUSE VERSION	COMPARISON TO HOUSE
Main Research Station	<u>\$66,572,180</u>	<u>\$67,611,170</u>	<u>\$437,640</u>	<u>\$68,048,810</u>	<u>\$68,500,707</u>	<u>(\$451,897)</u>
Total all funds	\$66,572,180	\$67,611,170	\$437,640	\$68,048,810	\$68,500,707	(\$451,707)
Less estimated income	<u>36,810,218</u>	<u>37,541,799</u>	<u>(18,477)</u>	<u>37,523,322</u>	<u>37,523,322</u>	
General fund	\$29,761,962	\$30,069,371	\$456,117	\$30,525,488	\$30,977,385	(\$451,897)
FTE	339.05	341.05	(1.00)	340.05	340.05	0.00

Dept. 640 - Main Research Station - Detail of Conference Committee Changes

	REDUCES RECOMMENDED FUNDING FOR HEALTH INSURANCE ¹	REMOVES POSITIONS AND FUNDING FOR BEEF SYSTEMS CENTER OF EXCELLENCE ²	ADDS 1 FTE DRY BEAN GENETICIST POSITION ³	ADDS FUNDING FOR WESTERN MALTING BARLEY PROJECT ⁴	ADDS FUNDING FOR EXTRAORDINARY REPAIRS ⁵	REDUCES FUNDING FROM THE ENVIRONMENT AND RANGELAND PROTECTION FUND ⁶
Main Research Station	<u>(\$45,427)</u>	<u>(\$251,897)</u>	<u>\$200,000</u>	<u>\$59,799</u>	<u>\$325,165</u>	<u>(\$50,000)</u>
Total all funds	(\$45,427)	(\$251,897)	\$200,000	\$59,799	\$325,165	(\$50,000)
Less estimated income	<u>(18,477)</u>		<u>50,000</u>			<u>(50,000)</u>
General fund	(\$26,950)	(\$251,897)	\$150,000	\$59,799	\$325,165	\$0
FTE	0.00	(2.00)	1.00	0.00	0.00	0.00
		ADDS FUNDING	TOTAL			

	FOR OPERATING AND EQUIPMENT NEEDS ⁷	CONFERENCE COMMITTEE CHANGES
Main Research Station	\$200,000	\$437,640
Total all funds	\$200,000	\$437,640
Less estimated income	_____	(18,477)
General fund	\$200,000	\$456,117
FTE	0.00	(1.00)

¹ This amendment reduces funding for state employee health insurance premiums from \$559.15 to \$553.95 per month.

² The conference committee removed \$251,897 and 2 FTE positions for the beef systems center of excellence. The Main Research Center is provided a total of \$450,000 for salaries of 2 remaining authorized FTE positions and other operating costs of the center. The House version provided for a \$200,000 reduction and removal of the 2 FTE positions.

³ The conference committee agreed with the House amendment to add funding for 1 FTE geneticist position and related operating expenses to conduct research and address issues related to dry edible beans. The conference committee changed \$50,000 of the funding source from the general fund to special funds.

⁴ The conference committee agreed with the House amendment to add funding for western malting barley research at the Main Research Center.

⁵ The conference committee added \$325,165 for extraordinary repairs to facilities. The House proposed to increase funding for extraordinary repairs by \$425,165.

⁶ The conference committee reduced the funding from the environment and rangeland protection fund by \$50,000, from \$200,000 to \$150,000.

⁷ The conference committee added \$200,000 of funding for operating and equipment infrastructure needs for the Main Research Center, branch research centers, and North Dakota State University Extension Service. The funding allocation is to be determined by the State Board of Agricultural Research and Education. The House amendment provided for \$350,000 from the general fund.

The conference committee added a section of intent that the 2 FTE positions for the beef systems center of excellence not be filled until the State Board of Agricultural Research and Education enters into a business partnership agreement for the beef systems center of excellence.

The conference committee added a section of intent that \$100,000 of funding provided to the Main Research Center for extraordinary repairs be used to construct a machine storage shed at the Williston Research Center.

Senate Bill No. 2020 - Agronomy Seed Farm - Conference Committee Action

	EXECUTIVE BUDGET	SENATE VERSION	CONFERENCE COMMITTEE CHANGES	CONFERENCE COMMITTEE VERSION	HOUSE VERSION	COMPARISON TO HOUSE
Agronomy Seed Farm	\$1,199,685	\$1,198,056	(\$374)	\$1,197,682	\$1,197,682	_____
Total all funds	\$1,199,685	\$1,198,056	(\$374)	\$1,197,682	\$1,197,682	\$0
Less estimated income	<u>1,199,685</u>	<u>1,198,056</u>	<u>(374)</u>	<u>1,197,682</u>	<u>1,197,682</u>	_____
General fund	\$0	\$0	\$0	\$0	\$0	\$0
FTE	2.97	2.97	0.00	2.97	2.97	0.00

Dept. 649 - Agronomy Seed Farm - Detail of Conference Committee Changes

	REDUCES RECOMMENDED FUNDING FOR HEALTH INSURANCE ¹	TOTAL CONFERENCE COMMITTEE CHANGES
Agronomy Seed Farm	(\$374)	(\$374)
Total all funds	(\$374)	(\$374)
Less estimated income	<u>(374)</u>	<u>(374)</u>
General fund	\$0	\$0
FTE	0.00	0.00

¹ This amendment reduces funding for state employee health insurance premiums from \$559.15 to \$553.95 per month.

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

CONSIDERATION OF CONFERENCE COMMITTEE REPORT

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

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

SECOND READING OF SENATE BILL

SB 2020: A BILL for an Act to provide an appropriation for defraying the expenses of the extension service, northern crops institute, upper great plains transportation institute, main research center, branch research centers, and agronomy seed farm; to provide legislative intent; and to declare an emergency.

ROLL CALL

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

YEAS: Andrist; Bercier; Bowman; Brown; Christmann; Cook; Dever; Erbele; Espgaard; Every; Fairfield; Fischer; Flakoll; Freborg; Grindberg; Hacker; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Mutch; Nelson; Nething; O'Connell; Robinson; Schobinger; Seymour; Stenehjerm; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Triplett; Urlacher; Wardner; Warner

Reengrossed SB 2020 passed, the title was agreed to, and the emergency clause was declared carried.

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

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

MESSAGE TO THE SENATE FROM THE HOUSE (BRADLEY C. FAY, CHIEF CLERK)

MR. PRESIDENT: The House has adopted the conference committee report and subsequently passed: HB 1004, HB 1009, HB 1252.

MESSAGE TO THE SENATE FROM THE HOUSE (BRADLEY C. FAY, CHIEF CLERK)

MR. PRESIDENT: The House has adopted the conference committee report, subsequently passed, and the emergency clause carried: HB 1002, HB 1003, HB 1008.

MESSAGE TO THE SENATE FROM THE HOUSE (BRADLEY C. FAY, CHIEF CLERK)

MR. PRESIDENT: The Speaker has signed: SB 2050, SB 2359.

MOTION

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

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

REPORT OF STANDING COMMITTEE

HB 1015, as engrossed: Appropriations Committee (Sen. Holmberg, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (15 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1015 was placed on the Sixth order on the calendar.

Page 1, line 4, remove "section 4-28-08,"

Page 1, line 5, remove the first comma, after "sections" insert "54-03-20 as amended by Senate Bill No. 2059 as approved by the fifty-ninth legislative assembly," and replace "54-52.1-06" with "54-44.1-06, 54-44.1-06.1"

Page 1, line 6, remove "the state wheat commission fund,"

Page 1, line 7, remove the first "and" and after "radio" insert ", lodging reimbursement for members of the legislative assembly, and preparation of the budget data; to repeal sections 9 and 12 of Senate Bill No. 2015, as approved by the fifty-ninth legislative assembly, relating to composite schedules for teacher salaries and a legislative council study of the department of corrections and rehabilitation; to provide for a legislative council study; to provide legislative intent"

Page 1, line 24, replace "\$1,876,214" with "\$1,892,438"

Page 1, line 25, replace "(94,850)" with "12,350"

Page 2, line 4, replace "\$312,926" with "\$221,950"

Page 2, line 5, replace "(514,476)" with "(410,608)"

Page 2, line 6, replace "201,550" with "188,658"

Page 2, line 13, replace "13,512,017" with "13,495,793"

Page 2, line 14, replace "11,233,906" with "11,341,106"

Page 2, line 18, replace "27,316,061" with "27,407,037"

Page 2, line 19, replace "7,374,000" with "7,477,868"

Page 2, line 20, replace "19,942,061" with "19,929,169"

Page 3, line 11, remove "or such greater amount as may be available"

Page 3, remove lines 22 through 31

Page 4, remove lines 1 through 5

Page 5, after line 12, insert:

"SECTION 11. AMENDMENT. Section 54-03-20 of the North Dakota Century Code, as amended by section 1 of Senate Bill No. 2059 as approved by the fifty-ninth legislative assembly, is amended and reenacted as follows:

54-03-20. Compensation and expense reimbursement of members of the legislative assembly.

1. Each member of the legislative assembly is entitled to receive as compensation for services the sum of one hundred twenty-five dollars for each calendar day during any organizational, special, or regular legislative session and for each day that member attends a meeting of a legislative committee between the organizational session and the regular session as authorized by legislative rule.
2.
 - a. Each member of the legislative assembly is entitled to receive reimbursement for lodging, which may not exceed a maximum of nine hundred dollars per calendar month for lodging in state, at the rates and in the manner provided in section 44-08-04 for each calendar day during the period of any organizational, special, or regular session.
 - b. Notwithstanding subdivision a:
 - (1) A member of the legislative assembly may elect to be reimbursed for less than the amount to which the legislator is entitled under this subsection by claiming the lesser amount on a voucher submitted with the receipt required by section 44-08-04.
 - (2) The legislative council may establish guidelines that may result in a reduced maximum reimbursement for a single dwelling in which two or more legislators share lodging and the total rent for that dwelling exceeds the amount to which a legislator is entitled under subdivision a.
3.
 - a. Members of the legislative assembly who receive reimbursement for lodging are also entitled to reimbursement for travel for not to exceed one round trip taken during any calendar week, or portion of a week, the legislative assembly is in session, between their residences and the place of meeting of the legislative assembly, at the rate provided for state employees with the additional limitation that reimbursement for travel by common carrier may be only at the cost of coach fare and may not exceed one and one-half times the amount the member would be entitled to receive as mileage reimbursement for travel by motor vehicle.

- b. A member of the legislative assembly who does not receive reimbursement for lodging and whose place of residence in the legislative district that the member represents is not within the city of Bismarck is entitled to reimbursement at the rate provided for state employees for necessary travel for not to exceed one round trip taken per day between the residence and the place of meeting of the legislative assembly when it is in session and may receive reimbursement for lodging at the place of meeting of the legislative assembly as provided in section 44-08-04 for each calendar day for which round trip travel reimbursement is not claimed, provided that the total reimbursement may not exceed nine hundred dollars per month.
- 4. The amount to which each legislator is entitled must be paid following the organizational session in December and following each month during a regular or special session.
- 5. If during a special session, the legislative assembly adjourns for more than three days, a member of the legislative assembly is entitled to receive compensation during those days only while in attendance at a standing committee if the legislator is a member of that committee, a majority or minority leader, or a legislator who is not on that committee but who has the approval of a majority or minority leader to attend.
- 6. A day, or portion of a day, spent in traveling to or returning from an organizational, special, or regular session or a legislative committee meeting must be included as a calendar day during a legislative session or as a day of a legislative committee meeting for the purposes of this section.
- 7.
 - a. In addition, each member is entitled to receive during the term for which the member was elected, as compensation for the execution of public duties during the biennium, the sum of two hundred fifty dollars a month, which is payable every six months or monthly, at the member's option.
 - b. If a member dies or resigns from office during the member's term, the member may be paid only the allowances provided for in this section for the period for which the member was actually a member.
 - c. The majority and minority leaders of the house and senate and the chairman of the legislative council, if the chairman is not a majority or minority leader, are each entitled to receive as compensation, in addition to any other compensation or expense reimbursement provided by law, the sum of two hundred fifty dollars per month during the biennium for their execution of public duties.
- 8. Attendance at any organizational, special, or regular session of the legislative assembly by any member is a conclusive presumption of entitlement as set out in this section and compensation and expense allowances must be excluded from gross income for income tax purposes to the extent permitted for federal income tax purposes under section 127 of the Economic Recovery Tax Act of 1981 [Pub. L. 97-34; 95 Stat. 202; 26 U.S.C. 162(i)]."

Page 5, after line 18, insert:

"SECTION 13. AMENDMENT. Section 54-44.1-06 of the North Dakota Century Code, as effective after June 30, 2005, is amended and reenacted as follows:

54-44.1-06. (Effective after June 30, 2005) Preparation of the budget data - Contents. The director of the budget, through the office of the budget, shall prepare budget data which must contain and include the following:

- 1. Summary statements of the financial condition of the state, accompanied by the detailed schedules of assets and liabilities as the director of the budget determines desirable, which must include the following:
 - a. Summary statements of fund balances and assets showing in detail for each fund the surplus or deficit at the beginning of each of the two fiscal years of the previous biennium and the first fiscal year of the present biennium, the actual revenue for those years, the total

appropriations for the previous and present biennium, and the total expenditures for those fiscal years; and

- b. Similar summary statements of the estimated fund balances and assets for the current fiscal year and each of the fiscal years of the next biennium.

Summary statements may include a comparative consolidated balance sheet showing all the assets and liabilities of the state and the surplus or deficit, as the case may be, at the close of the first fiscal year of the current biennium.

2. Statements of actual revenue for the previous biennium, the first year of the present biennium, and the estimated revenue of the current fiscal year and of the next biennium, and a statement of unappropriated surplus expected to have accrued in the state treasury at the beginning of the next fiscal year. The statement of unappropriated surplus for the general fund must reflect any projected deficiency appropriations relating to expenditures from the general fund for the present biennium. The statements of revenue and estimated revenue must be classified by sources and by budget unit collecting them. Existing sources of revenue must be analyzed as to their equity, productivity, and need for revision, and any proposed new sources of revenue must be explained.
3. Summary statements of expenditures of the previous biennium and first year of the present biennium, itemized by budget units and classified as prescribed by the director of the budget.
4. Detailed comparative statements of expenditures and requests for appropriations by funds, budget units and classification of expenditures, showing the expenditures for the previous biennium, the first fiscal year of the present biennium, the budget of the current biennium, and the governor's recommendation for appropriations for each budget unit for the next biennium, all distributed according to the prescribed classification of expenditures. Following the lists of actual and proposed expenditures of each budget unit there must be a brief explanation of the functions of the unit and comments on its policies and plans and on any considerable differences among the amounts recommended, with any descriptive, quantitative, comparative, and other data as to work done, unit costs, and like information as may be considered necessary or desirable. For capital outlay expenditures involving construction projects to be completed in two or more fiscal years, there must be shown the total estimated cost of each such project and the amount thereof recommended to be appropriated and expended in each ensuing fiscal year until completion of the project. Capital outlay needs may be projected for at least two years beyond the period covered by the budget.
5. A detailed statement showing the estimate of all moneys required to be raised or appropriated for the payment of interest upon the funded debt of the state and its other obligations bearing interest, and the amount of money required to be contributed in the two next ensuing fiscal years to the general sinking funds maintained for the redemption and payment of the debts of the state.
6. A summary statement of the unappropriated fund balance estimated to be available at the beginning of the next biennium, and the estimated revenue of the next biennium, as compared with the total recommended amounts of appropriation for all classes of expenditures for the next biennium, and if the total of the recommended expenditures exceeds the total of the estimated resources, recommendations as to how the deficiency is to be met and estimates of any proposed additional revenue.
7. Drafts of a proposed ~~general appropriations act and special~~ appropriations acts for executive branch departments, agencies, and institutions, including institutions of higher education, providing the same funding as approved by the most recently adjourned special or regular session of the legislative assembly and amendments to the drafts of appropriations acts embodying the budget data and recommendations of the governor for appropriations for the next biennium and drafts of such revenues and other acts recommended by the governor for putting into effect the proposed financial

plan. ~~The recommended general appropriation for each budget unit must be specified in a separate section of the general appropriations act.~~

8. A list of every individual asset or service, excluding real estate, with a value of at least fifty thousand dollars and every group of assets and services comprising a single system with a combined value of at least fifty thousand dollars acquired through a capital or operating lease arrangement or debt financing arrangement by a state agency or institution. The list must include assets or services acquired in the current biennium and anticipated assets or services to be acquired in the next biennium.
9. A financial plan for a prospective period of six years, including the executive budget recommendation for the next biennium, estimates of anticipated general fund and non-general fund revenues prepared for an additional period of four years, and estimates of the general fund and non-general fund appropriations required for each major program for an additional period of four years. In preparing the financial plan, the office of management and budget may utilize estimates prepared by state agencies or such other information as may be deemed necessary.
10. Any other information as the director of the budget determines desirable or as is required by law.

SECTION 14. AMENDMENT. Section 54-44.1-06.1 of the North Dakota Century Code is amended and reenacted as follows:

54-44.1-06.1. Contents of capital construction bill. The office of management and budget shall continue to prepare capital construction budgets and a capital construction bill. ~~All future~~ The capital construction bill may only include projects involving bonding. All other capital projects funded with general fund moneys or special funds must be included in draft amendments to the appropriate agency's appropriation bill."

Page 5, after line 30, insert:

"SECTION 16. REPEAL. Section 9 of Senate Bill No. 2015, as approved by the fifty-ninth legislative assembly, is repealed.

SECTION 17. REPEAL. Section 12 of Senate Bill No. 2015, as approved by the fifty-ninth legislative assembly, is repealed.

SECTION 18. LEGISLATIVE COUNCIL STUDY - DEPARTMENT OF CORRECTIONS AND REHABILITATION EMPLOYEE SALARIES. The legislative council shall consider studying, during the 2005-06 interim, employee salaries of the department of corrections and rehabilitation. The study must include:

1. Input from the office of management and budget human resource management services division regarding a salary comparison of the department's employees to market, the impact on the salary comparison of the salary increases and equity adjustments authorized for the 2005-07 biennium, and a review of the same information from 1995 through 2005, including a comparison of the salaries for the department of corrections and rehabilitation employees to market and any salary increases and equity adjustments provided during that time.
2. Input from the department of corrections and rehabilitation regarding employee salary increases provided by job classification from 1995 through 2005, employee turnover by job classification, salary equity funding requested and provided, and other relevant information.
3. A review by the legislative council of reasons relating to the divergence of salaries for the department of corrections and rehabilitation employees from market, including the related impact of demands on the department's budget due to growth in inmate populations, increase in contract housing of inmates, budget reductions, and agency turnback.

The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixtieth legislative assembly.

SECTION 19. LEGISLATIVE INTENT - EQUITY ADJUSTMENTS FOR STATE EMPLOYEES. It is the intent of the fifty-ninth legislative assembly that in addition to state employee compensation adjustments provided by the legislative assembly, state agencies may provide salary equity adjustments to state employees during the second year of the biennium averaging one percent only to the extent the increase can be paid within the limits of the agency's appropriation. The market equity increases are to be prioritized based on equity for employees whose salaries are furthest from their respective salary range midpoints effective July 1, 2005. Market equity increases may not be given to employees whose salary exceeds the midpoints of their assigned salary range effective July 1, 2005. The agency shall report the equity adjustments provided to the office of management and budget."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

House Bill No. 1015 - Summary of Senate Action

	EXECUTIVE BUDGET	HOUSE VERSION	SENATE CHANGES	SENATE VERSION
Office of Management and Budget				
Total all funds	\$33,952,969	\$27,316,061	\$90,976	\$27,407,037
Less estimated income	11,683,281	7,374,000	103,868	7,477,868
General fund	\$22,269,688	\$19,942,061	(\$12,892)	\$19,929,169
Legislative Assembly				
Total all funds	\$0	\$100,000	\$0	\$100,000
Less estimated income				
General fund	\$0	\$100,000	\$0	\$100,000
Bill Total				
Total all funds	\$33,952,969	\$27,416,061	\$90,976	\$27,507,037
Less estimated income	11,683,281	7,374,000	103,868	7,477,868
General fund	\$22,269,688	\$20,042,061	(\$12,892)	\$20,029,169

House Bill No. 1015 - Office of Management and Budget - Senate Action

	EXECUTIVE BUDGET	HOUSE VERSION	SENATE CHANGES	SENATE VERSION
Salaries and wages	\$13,558,925	\$13,512,017	(\$16,224)	\$13,495,793
Operating expenses	11,233,906	11,233,906	107,200	11,341,106
Capital assets	2,644,000	844,000		844,000
Grants	179,000	389,000		389,000
Prairie Public Broadcasting	1,337,138	1,337,138		1,337,138
Statewide equity pool	5,000,000			
Total all funds	\$33,952,969	\$27,316,061	\$90,976	\$27,407,037
Less estimated income	11,683,281	7,374,000	103,868	7,477,868
General fund	\$22,269,688	\$19,942,061	(\$12,892)	\$19,929,169
FTE	130.50	130.50	0.00	130.50

Dept. 110 - Office of Management and Budget - Detail of Senate Changes

	REDUCES RECOMMENDED FUNDING FOR HEALTH INSURANCE ¹	PROVIDES AUTHORITY FOR SERVER HOSTING SERVICES AND HOMELAND SECURITY ²	TOTAL SENATE CHANGES
Salaries and wages	(\$16,224)		(\$16,224)
Operating expenses		\$107,200	107,200
Capital assets			
Grants			
Prairie Public Broadcasting			
Statewide equity pool			
Total all funds	(\$16,224)	\$107,200	\$90,976
Less estimated income	(3,332)	107,200	103,868
General fund	(\$12,892)	\$0	(\$12,892)
FTE	0.00	0.00	0.00

¹ This amendment reduces funding for state employee health insurance premiums from \$559.15 to \$553.95 per month.

² The Senate added \$107,200 of funding from a homeland security grant to risk management for the cost of server hosting services at the Information Technology Department.

The Senate amendments provided for the following:

- Amends North Dakota Century Code (NDCC) Section 54-03-20 providing for a member of the Legislative Assembly to elect to be reimbursed for less than the amount to which the legislator is entitled.
- Amends NDCC Section 54-44.1-06 providing that appropriation bills prepared by the Office of Management and Budget provide the same funding as approved by the most recently adjourned special or regular session of the Legislative Assembly, with amendments presented to reflect the executive recommendation. This amendment also provides for the Office of Management and Budget to provide the Legislative Assembly with estimated budget information for an additional four-year period beyond the two-year period covered by the executive recommendation.
- In addition, the Senate amended NDCC Section 54-44.1-06.1 to provide that the capital construction bill include only projects involving bonding and that all other capital projects be included in draft amendments to the appropriate agency's appropriations bill.
- Repeals Section 9 of 2005 Senate Bill No. 2015 relating to preparation of future composite schedules for teacher salaries.
- Repeals Section 12 of 2005 Senate Bill No. 2015 relating to a Legislative Council study of the Department of Corrections and Rehabilitation.
- Removes the section which would have required the North Dakota Wheat Commission to submit a budget request to the Legislative Assembly.
- Provides for a Legislative Council study of employee salaries for the Department of Corrections and Rehabilitation.
- Limits the transfer from the lands and minerals trust fund to the general fund to \$5 million.
- Allows additional state employee compensation adjustments for salary equity adjustments averaging 1 percent for the second year of the biennium to be paid from existing agency appropriations.

CONSIDERATION OF AMENDMENTS

HB 1015, as engrossed: SEN. HOLMBERG (Appropriations Committee) MOVED that the amendments be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

SECOND READING OF HOUSE BILL

HB 1015: A BILL for an Act to provide an appropriation for defraying the expenses of the various divisions under the supervision of the director of the office of management and budget; to provide for various transfers and financial transactions; to provide an exemption from the provisions of section 54-44.1-11 of the North Dakota Century Code; to amend and reenact subsection 6 of section 37-17.1-06 and sections 54-03-20 as amended by Senate Bill No. 2059 as approved by the fifty-ninth legislative assembly, 54-23.2-01, 54-44.1-06, 54-44.1-06.1, and 57-40.6-12 of the North Dakota Century Code, relating to the division of emergency management, state radio, lodging reimbursement for members of the legislative assembly, and preparation of the budget data; to repeal sections 9 and 12 of Senate Bill No. 2015, as approved by the fifty-ninth legislative assembly, relating to composite schedules for teacher salaries and a legislative council study of the department of corrections and rehabilitation; to provide for a legislative council study; to provide legislative intent; and to provide an appropriation to the legislative assembly.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 44 YEAS, 1 NAY, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

YEAS: Andrist; Bercier; Bowman; Brown; Christmann; Cook; Dever; Erbele; Espgaard; Every; Fairfield; Fischer; Flakoll; Freborg; Grindberg; Hacker; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Lyson; Mutch; Nelson; Nething; O'Connell; Robinson; Schobinger; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Triplett; Warner

NAYS: Mathern

ABSENT AND NOT VOTING: Urlacher; Wardner

Engrossed HB 1015, as amended, passed and the title was agreed to.

MOTION

SEN. STENEHJEM MOVED that Engrossed HB 1015, as amended, be messaged to the House immediately, which motion prevailed.

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)
MR. SPEAKER: The Senate has amended and subsequently passed: HB 1015.

REPORT OF CONFERENCE COMMITTEE

HB 1002, as engrossed: Your conference committee (Sens. Thane, Holmberg, Mathern and Reps. Thoreson, Carlisle, Kroeber) recommends that the **SENATE RECEDE** from the Senate amendments on HJ pages 1381-1382, adopt amendments as follows, and place HB 1002 on the Seventh order:

That the Senate recede from its amendments as printed on pages 1381 and 1382 of the House Journal and pages 1037 and 1038 of the Senate Journal and that Engrossed House Bill No. 1002 be amended as follows:

Page 1, line 2, after the semicolon insert "to provide an exemption;"

Page 1, line 3, replace "section" with "sections" and after "54-09-05" insert "and 54-09-08"

Page 1, line 4, after "state" insert "and the secretary of state's general services operating fund"

Page 2, line 7, replace "133,738" with "130,493"

Page 2, line 10, replace "79,853" with "79,728"

Page 2, line 11, replace "279,063" with "275,693"

Page 2, line 12, replace "63,378" with "63,253"

Page 2, line 13, replace "215,685" with "212,440"

Page 2, line 18, replace "206,685" with "203,440"

Page 2, line 19, replace "63,378" with "63,253"

Page 2, line 20, replace "270,063" with "266,693"

Page 2, line 29, replace "2,287,356" with "2,284,111"

Page 3, line 2, replace "9,579,853" with "9,579,728"

Page 3, line 3, replace "13,966,270" with "13,962,900"

Page 3, line 4, replace "9,943,741" with "9,943,616"

Page 3, line 5, replace "4,022,529" with "4,019,284"

Page 3, line 10, replace "4,349,529" with "4,346,284"

Page 3, line 11, replace "9,943,741" with "9,943,616"

Page 3, line 12, replace "14,293,270" with "14,289,900"

Page 3, line 14, after "counties" insert "or make available \$76,100 from other sources, including savings from other areas within the secretary of state's budget"

Page 3, line 16, after "collected" insert "or made available"

Page 3, line 17, after "fund" insert "or if made available from general fund budget savings of the secretary of state, be returned to the general fund as unspent general fund appropriation authority for the 2005-07 biennium"

Page 3, after line 17, insert:

"SECTION 5. EXEMPTION. The appropriation contained in subdivision 1 of section 1 of chapter 2 of the 2001 Session Laws is not subject to the provisions of section 54-44.1-11 for an amount of up to \$105,000, and this amount may be used as state matching funds for federal election reform funding available to the state, for the biennium beginning July 1, 2005, and ending June 30, 2007."

Page 3, after line 23, insert:

"SECTION 7. AMENDMENT. Section 54-09-08 of the North Dakota Century Code is amended and reenacted as follows:

54-09-08. Secretary of state's general services operating fund. The secretary of state's general services operating fund is a special fund in the state treasury. Moneys in the fund are to be used pursuant to legislative appropriations for the provision of services under section 16.1-02-15, subsection 6 of section 41-09-94, subsection 9 of section 54-09-04, and sections 54-09-10 and 54-09-11. At the close of each fiscal year biennium, the secretary of state shall transfer any unobligated balance remaining in the fund exceeding seventy-five thousand dollars to the general fund."

Page 3, line 24, after "3" insert "and section 5"

Page 3, line 25, replace "is" with "are"

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	\$14,521,822	\$13,966,270	(\$3,370)	\$13,962,900	\$13,962,900	\$0
Less estimated income	10,316,535	9,943,741	(125)	9,943,616	9,943,616	
General fund	\$4,205,287	\$4,022,529	(\$3,245)	\$4,019,284	\$4,019,284	\$0
Public Printing						
Total all funds	\$327,000	\$327,000	\$0	\$327,000	\$327,000	\$0
Less estimated income						
General fund	\$327,000	\$327,000	\$0	\$327,000	\$327,000	\$0
Bill Total						
Total all funds	\$14,848,822	\$14,293,270	(\$3,370)	\$14,289,900	\$14,289,900	\$0
Less estimated income	10,316,535	9,943,741	(125)	9,943,616	9,943,616	
General fund	\$4,532,287	\$4,349,529	(\$3,245)	\$4,346,284	\$4,346,284	\$0

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	\$2,296,214	\$2,287,356	(\$3,245)	\$2,284,111	\$2,284,111	
Operating expenses	2,326,061	2,076,061		2,076,061	\$2,076,061	
Capital assets	15,000	15,000		15,000	15,000	
Petition review	8,000	8,000		8,000	8,000	
Election reform	9,876,547	9,579,853	(125)	9,579,728	9,579,728	
Total all funds	\$14,521,822	\$13,966,270	(\$3,370)	\$13,962,900	\$13,962,900	\$0
Less estimated income	10,316,535	9,943,741	(125)	9,943,616	9,943,616	
General fund	\$4,205,287	\$4,022,529	(\$3,245)	\$4,019,284	\$4,019,284	\$0
FTE	27.00	27.00	0.00	27.00	27.00	0.00

Dept. 108 - Secretary of State - Detail of Conference Committee Changes

	REDUCES RECOMMENDED FUNDING FOR HEALTH INSURANCE	TOTAL CONFERENCE COMMITTEE CHANGES
Salaries and wages	(\$3,245)	(\$3,245)
Operating expenses		
Capital assets		
Petition review		
Election reform	(125)	(125)

Total all funds	(\$3,370)	(\$3,370)
Less estimated income	(125)	(125)
General fund	(\$3,245)	(\$3,245)
FTE	0.00	0.00

A section is added as an emergency authorizing the Secretary of State to continue, for the 2005-07 biennium, any unspent appropriation authority remaining from the agency's authorized carryover from the 2001-03 biennium of up to \$105,000 for providing state matching funds for federal election reform funding. This section was also included in the Senate version.

A section is added amending Section 54-09-08 requiring the Secretary of State to transfer any amounts in the Secretary of State's general services operating fund exceeding \$75,000 at the end of a biennium to the general fund rather than at the end of each fiscal year. This section was also included in the Senate version.

The section added by the House requiring the Secretary of State to collect \$76,100 from counties to reimburse the general fund for the \$76,100 appropriated for matching federal election reform funding is changed to allow the Secretary of State to either collect the funds from the counties or to make available the funding from other sources which may include savings from within the Secretary of State's budget.

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

CONSIDERATION OF CONFERENCE COMMITTEE REPORT

SEN. THANE 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.

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 an exemption; to define matching requirements for the Help America Vote Act; to amend and reenact sections 54-09-05 and 54-09-08 of the North Dakota Century Code, relating to the salary of the secretary of state and the secretary of state's general services operating fund; and to declare an emergency.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 45 YEAS, 0 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

YEAS: Andrist; Bercier; Bowman; Brown; Christmann; Cook; Dever; Erbele; Espgaard; Every; Fairfield; Fischer; Flakoll; Freborg; Grindberg; Hacker; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Mutch; Nelson; Nething; O'Connell; Robinson; Schobinger; Seymour; Stenehjerm; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Triplett; Warner

ABSENT AND NOT VOTING: Urlacher; Wardner

Engrossed HB 1002, as amended, passed, the title was agreed to, and the emergency clause was declared carried.

REPORT OF CONFERENCE COMMITTEE

HB 1003, as engrossed: Your conference committee (Sens. Kringstad, Holmberg, Mathern and Reps. Carlisle, Thoreson, Williams) recommends that the **SENATE RECEDE** from the Senate amendments on HJ pages 1499-1502, adopt amendments as follows, and place HB 1003 on the Seventh order:

That the Senate recede from its amendments as printed on pages 1499-1502 of the House Journal and pages 1186-1189 of the Senate Journal and that Engrossed House Bill No. 1003 be amended as follows:

Page 1, line 2, after the first semicolon insert "to provide an appropriation for defraying the expenses of the racing commission;"

Page 1, line 3, after the second semicolon insert "to provide for a salary equity review and recommendation;" and after "amend" insert "and reenact subsection 1 of section 53-06.2-02 and"

Page 1, line 4, after the second "the" insert "membership of the racing commission and the"

Page 2, line 1, replace "860,869" with "926,395"

Page 2, line 2, replace "283,953" with "488,324"

Page 2, line 3, replace "(63,000)" with "(44,200)"

Page 2, remove line 5

Page 2, line 7, replace "1,501,643" with "1,422,945"

Page 2, line 8, replace "(78,717)" with "(515,729)"

Page 2, line 9, replace "1,580,360" with "1,938,674"

Page 2, line 15, replace "19,322,170" with "19,387,696"

Page 2, line 16, replace "8,279,424" with "8,483,795"

Page 2, line 17, replace "1,767,250" with "1,786,050"

Page 2, remove line 21

Page 2, line 24, replace "35,985,334" with "35,906,636"

Page 2, line 25, replace "17,350,757" with "16,913,745"

Page 2, line 26, replace "18,634,577" with "18,992,891"

Page 2, after line 26, insert:

"SECTION 4. APPROPRIATION - RACING COMMISSION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, to the racing commission for the purpose of defraying the expenses of the racing commission, for the biennium beginning July 1, 2005, and ending June 30, 2007, as follows:

Racing commission	\$367,145
Total all funds	\$367,145
Less estimated income	<u>249,666</u>
Total general fund appropriation	\$117,479"

Page 3, line 18, replace "3" with "4", replace the first "\$73,945" with "\$73,889", and replace the second "\$73,945" with "\$73,889"

Page 3, line 19, replace "\$73,946" with "\$73,888"

Page 4, line 6, replace "2005" with "2007"

Page 4, line 8, remove "- **COLLABORATION**"

Page 4, line 9, remove "**WITH UNITED STATES DEPARTMENT OF JUSTICE**" and replace "collaborate" with "consider, in consultation"

Page 4, line 10, replace "to determine whether" with ", the feasibility of naming"

Page 4, line 11, remove "should be named"

Page 4, after line 13, insert:

"SECTION 14. SALARY REVIEW AND RECOMMENDATION. During the 2005-06 interim, the director of the office of management and budget shall conduct an equity review of the salaries of all attorneys and paralegals employed as full-time employees with all branches of government within the state of North Dakota, including

attorneys and paralegals employed by the state board of higher education and workforce safety and insurance. The director shall provide to the governor for inclusion in the 2007-09 biennial executive budget recommendation the funding necessary to adjust the salaries of attorneys and paralegals in a manner that makes attorney and paralegal salaries comparable and equitable throughout state government. In determining comparable positions based upon years of experience and importance of position, the director shall consult with the attorney general.

SECTION 15. AMENDMENT. Subsection 1 of section 53-06.2-02 of the North Dakota Century Code is amended and reenacted as follows:

1. A North Dakota racing commission is established in the office of the attorney general. The commission is subject to the supervision and direction of the attorney general, except with regard to the commission's authority to spend the funds described in subsection 6 of section 53-06.2-11. The attorney general may require payment for any services rendered to the racing commission. Payment for such services must be deposited into the attorney general's operating fund. The commission consists of the chairman and four other members appointed by the governor. Of the members appointed by the governor, one must be appointed from a list of four nominees, one of whom is nominated by the state chapter or affiliate of the American quarter horse racing association, one of whom is nominated by the state chapter or affiliate of the United States trotting association, one of whom is nominated by the state chapter or affiliate of the international Arabian horse association, and one of whom is nominated by the state chapter or affiliate of the North Dakota thoroughbred association. The members serve five-year terms and until a successor is appointed and qualified. A member appointed to fill a vacancy arising from other than the natural expiration of a term serves ~~only~~ the unexpired portion of the term and may be reappointed. The terms of the commissioners must be staggered so that one term expires each July first. At the expiration of the five-year term of each incumbent member of the commission, the governor shall appoint a new member to the commission."

Page 4, line 20, replace "10" with "11"

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

House Bill No. 1003 - Summary of Conference Committee Action

	EXECUTIVE BUDGET	HOUSE VERSION	CONFERENCE COMMITTEE CHANGES	CONFERENCE COMMITTEE VERSION	SENATE VERSION	COMPARISON TO SENATE
Attorney General						
Total all funds	\$36,058,177	\$35,985,334	(\$78,698)	\$35,906,636	\$35,906,636	\$0
Less estimated income	17,788,541	17,350,757	(437,012)	16,913,745	16,783,853	129,892
General fund	\$18,269,636	\$18,634,577	\$358,314	\$18,992,891	\$19,122,783	(\$129,892)
Racing Commission						
Total all funds	\$0	\$0	\$367,145	\$367,145	\$367,145	\$0
Less estimated income			249,666	249,666	249,666	
General fund	\$0	\$0	\$117,479	\$117,479	\$117,479	\$0
Bill Total						
Total all funds	\$36,058,177	\$35,985,334	\$288,447	\$36,273,781	\$36,273,781	\$0
Less estimated income	17,788,541	17,350,757	(187,346)	17,163,411	17,033,519	129,892
General fund	\$18,269,636	\$18,634,577	\$475,793	\$19,110,370	\$19,240,262	(\$129,892)

House Bill No. 1003 - Attorney General - Conference Committee Action

	EXECUTIVE BUDGET	HOUSE VERSION	CONFERENCE COMMITTEE CHANGES	CONFERENCE COMMITTEE VERSION	SENATE VERSION	COMPARISON TO SENATE
Salaries and wages	\$19,400,721	\$19,322,170	\$65,526	\$19,387,696	\$19,387,696	
Operating expenses	8,254,104	8,279,424	204,371	8,483,795	8,483,795	
Capital assets	1,767,250	1,767,250	18,800	1,786,050	1,786,050	
Grants	5,944,056	5,944,056		5,944,056	5,944,056	
Litigation fees	50,000	50,000		50,000	50,000	
State school finance lawsuit	240,000	240,000		240,000	240,000	
Racing Commission	387,007	367,395	(367,395)			
Arrest and return of fugitives	10,000	10,000		10,000	10,000	
Gaming Commission	5,039	5,039		5,039	5,039	
Total all funds	\$36,058,177	\$35,985,334	(\$78,698)	\$35,906,636	\$35,906,636	\$0

Less estimated income	<u>17,788,541</u>	<u>17,350,757</u>	<u>(437,012)</u>	<u>16,913,745</u>	<u>16,783,853</u>	<u>129,892</u>
General fund	\$18,269,636	\$18,634,577	\$358,314	\$18,992,891	\$19,122,783	(\$129,892)
FTE	177.00	175.00	(0.70)	174.30	174.30	0.00

Dept. 125 - Attorney General - Detail of Conference Committee Changes

	REDUCES RECOMMENDED FUNDING FOR HEALTH INSURANCE	CHANGES FUNDING SOURCE FOR ATTORNEY SALARIES 1	ADDS FUNDING FOR CRIME LAB FORENSIC SUPPLIES 2	ADDS FUNDING FOR CRIME LAB SERVICE AGREEMENTS 3	ADDS FUNDING FOR CONNECTND FEES 4	ADDS FUNDING FOR DNA TESTING FOR FELONS 5
Salaries and wages	(\$21,465)					\$86,991
Operating expenses			\$70,853	\$74,552	\$31,078	27,888
Capital assets						18,800
Grants						
Litigation fees						
State school finance lawsuit						
Racing Commission	(250)					
Arrest and return of fugitives						
Gaming Commission						
Total all funds	(\$21,715)	\$0	\$70,853	\$74,552	\$31,078	\$133,679
Less estimated income	<u>(5,400)</u>	<u>(241,024)</u>			<u>31,078</u>	
General fund	(\$16,315)	\$241,024	\$70,853	\$74,552	\$0	\$133,679
FTE	0.00	0.00	0.00	0.00	0.00	1.30
		TOTAL CONFERENCE COMMITTEE CHANGES				
Salaries and wages		\$65,526				
Operating expenses		204,371				
Capital assets		18,800				
Grants						
Litigation fees						
State school finance lawsuit						
Racing Commission	(\$367,145)	(367,395)				
Arrest and return of fugitives						
Gaming Commission						
Total all funds	(\$367,145)	(\$78,698)				
Less estimated income	<u>(221,666)</u>	<u>(437,012)</u>				
General fund	(\$145,479)	\$358,314				
FTE	(2.00)	(0.70)				

1 The funding source for continuing the cost of salary equity increases for attorneys authorized by the 2003 Legislative Assembly from special funds for the 2003-05 biennium is changed to the general fund for the 2005-07 biennium, the same as the Senate version.

2 Funding is added for additional forensic supplies for the crime lab, the same as the Senate version.

3 Funding is added for service agreements on crime lab equipment, the same as the Senate version.

4 Funding is added from special funds for 2005-07 ConnectND fees, the same as the Senate version.

5 Funding of \$133,679 from the general fund, including 1 FTE administrative assistant and a .3 FTE forensic scientist, is added for costs associated with collecting and processing DNA samples from all convicted felons in accordance with provisions of House Bill No. 1235. The Senate also added this funding.

6 Funding for the Racing Commission is removed and provided in a separate appropriation section in accordance with provisions of Senate Bill No. 2340 which removes the Racing Commission from the Attorney General's office. The Senate also made this change.

The section added by the House requiring the Attorney General to collaborate with the federal prosecutors to determine whether North Dakota should be named as a plaintiff in Medicare and Medicaid fraud cases being considered by the federal government is changed to require the Attorney General to consider, in consultation with federal prosecutors, the feasibility of naming North Dakota as a plaintiff in these cases. The Senate also made this change.

A section is added requiring the Office of Management and Budget to conduct a salary equity review of attorneys and paralegals employed by state government and to include a recommendation in the 2007-09 executive budget to provide for comparable and equitable salaries for these employees, the same as the Senate version.

The conference committee added a section allowing a Racing Commission member, appointed to fill a vacancy on the commission, to be reappointed to the commission.

The conference committee removed the following items which were included in the Senate version:

- The Senate added \$100,000 from the general fund and reduced special funds by \$100,000 for crime lab testing supplies.
- The Senate added \$29,892 from the general fund and reduced other funds by \$29,892 to replace a portion of the anticipated reduction in federal funds available for drug enforcement activities of the Bureau of Criminal Investigation and the crime lab.

House Bill No. 1003 - Racing Commission - Conference Committee Action

	EXECUTIVE BUDGET	HOUSE VERSION	CONFERENCE COMMITTEE CHANGES	CONFERENCE COMMITTEE VERSION	SENATE VERSION	COMPARISON TO SENATE
Racing Commission			<u>\$367,145</u>	<u>\$367,145</u>	<u>\$367,145</u>	
Total all funds	\$0	\$0	\$367,145	\$367,145	\$367,145	\$0
Less estimated income			<u>249,666</u>	<u>249,666</u>	<u>249,666</u>	
General fund	\$0	\$0	\$117,479	\$117,479	\$117,479	\$0
FTE	0.00	0.00	2.00	2.00	2.00	0.00

Dept. 130 - Racing Commission - Detail of Conference Committee Changes

	ADDS SEPARATE APPROPRIATION FOR RACING ¹	CHANGES FUNDING SOURCE ²	TOTAL CONFERENCE COMMITTEE CHANGES
Racing Commission	<u>\$367,145</u>		<u>\$367,145</u>
Total all funds	\$367,145	\$0	\$367,145
Less estimated income	<u>221,666</u>	<u>28,000</u>	<u>249,666</u>
General fund	\$145,479	(\$28,000)	\$117,479
FTE	2.00	0.00	2.00

¹ A section is added providing an appropriation for the Racing Commission in accordance with provisions of Senate Bill No. 2340 which removes the Racing Commission from the Attorney General's office. The Senate also made this change.

² A funding source change from the general fund to special funds is made to allow expenditure of license fee collections that will be deposited in the Racing Commission operating fund rather than the general fund in accordance with provisions of Senate Bill No. 2344. The Senate also made this change.

Engrossed HB 1003 was placed on the Seventh order of business on the calendar.

CONSIDERATION OF CONFERENCE COMMITTEE REPORT

SEN. KRINGSTAD MOVED that the conference committee report on Engrossed HB 1003 be adopted, which motion prevailed on a voice vote.

Engrossed HB 1003, as amended, was placed on the Fourteenth order.

SECOND READING OF HOUSE BILL

HB 1003: A BILL for an Act to provide an appropriation for defraying the expenses of the attorney general; to provide an appropriation for defraying the expenses of the racing commission; to provide an exemption; to provide for racing commission expenses; to provide a statement of legislative intent; to provide for duties of the attorney general; to provide for a salary equity review and recommendation; to amend and reenact subsection 1 of section 53-06.2-02 and section 54-12-11 of the North Dakota Century Code, relating to the membership of the racing commission and the salary of the attorney general; and to declare an emergency.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 45 YEAS, 0 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

YEAS: Andrist; Bercier; Bowman; Brown; Christmann; Cook; Dever; Erbele; Espgaard; Every; Fairfield; Fischer; Flakoll; Freborg; Grindberg; Hacker; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Mutch; Nelson; Nething; O'Connell; Robinson; Schobinger; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Triplett; Warner

ABSENT AND NOT VOTING: Urlacher; Wardner

Engrossed HB 1003, as amended, passed, the title was agreed to, and the emergency clause was declared carried.

REPORT OF CONFERENCE COMMITTEE

HB 1004, as engrossed: Your conference committee (Sens. Kilzer, Schobinger, Krauter and Reps. Skarphol, Monson, Glassheim) recommends that the **HOUSE ACCEDE** to the Senate amendments on HJ page 1387 and place HB 1004 on the Seventh order.

Engrossed HB 1004 was placed on the Seventh order of business on the calendar.

CONSIDERATION OF CONFERENCE COMMITTEE REPORT

SEN. KILZER MOVED that the conference committee report on Engrossed HB 1004 be adopted, which motion prevailed on a voice vote.

REPORT OF CONFERENCE COMMITTEE

HB 1008, as engrossed: Your conference committee (Sens. Schobinger, Christmann, Mathern and Reps. Kempenich, Thoreson, Kroeber) recommends that the **SENATE RECEDE** from the Senate amendments on HJ pages 1467-1468, adopt amendments as follows, and place HB 1008 on the Seventh order:

That the Senate recede from its amendments as printed on pages 1467 and 1468 of the House Journal and pages 1162 and 1163 of the Senate Journal and that Engrossed House Bill No. 1008 be amended as follows:

Page 1, line 4, after "study" insert "; to provide an exemption to section 54-44.1-11 relating to unexpended appropriations" and remove "a statement of"

Page 1, line 23, replace "312,608" with "307,491"

Page 2, line 1, replace "23,500" with "53,500"

Page 2, line 3, replace "950,000" with "695,000"

Page 2, line 4, replace "1,442,000" with "1,211,883"

Page 2, line 5, replace "1,105,516" with "848,753"

Page 2, line 6, replace "336,484" with "363,130"

Page 2, line 12, replace "5,084,105" with "5,078,988"

Page 2, line 14, replace "58,511" with "88,511"

Page 2, line 17, replace "1,200,000" with "945,000"

Page 2, line 18, replace "11,426,261" with "11,196,144"

Page 2, line 19, replace "7,178,283" with "6,921,520"

Page 2, line 20, replace "4,247,978" with "4,274,624"

Page 2, line 22, replace "\$1,200,000" with "\$945,000"

Page 2, line 23, after the comma insert "consisting of \$800,000" and after "fund" insert ", \$20,000 of carryover authority from the state rail fund, and \$125,000 from other sources, including the shipper participating in the case,"

Page 2, line 24, after the period insert "The commission must have written commitments for \$125,000 from other sources, including the shipper participating in the case, before spending any moneys from the beginning farmer revolving loan fund."

Page 3, replace lines 3 through 8 with:

"SECTION 6. EXEMPTION. The amount appropriated for the rail rate complaint case, as contained in section 1 of chapter 29 of the 2003 Session Laws, is not subject to the provision of section 54-44.1-11. Any unexpended funds from the rail rate complaint case line item are available for continued use for expenditures relating to the rail rate complaint case.

SECTION 7. LEGISLATIVE COUNCIL STUDY - PUBLIC SERVICE COMMISSION DUTIES AND RESPONSIBILITIES. The legislative council shall consider studying, during the 2005-06 interim, the changes in responsibilities and duties of the public service commission since its inception. The study should include an evaluation of what additional duties have been given to the commission and those duties no longer performed. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixtieth legislative assembly."

Page 3, after line 16, insert:

"SECTION 10. COMMISSION HEARING ROOM - LEGISLATIVE INTENT. It is the intent of the legislative assembly that the public service commission hearing room be available for use by other state agencies and by the legislative assembly during the regular session when not being used for commission business."

ReNUMBER accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

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

	EXECUTIVE BUDGET	HOUSE VERSION	CONFERENCE COMMITTEE CHANGES	CONFERENCE COMMITTEE VERSION	SENATE VERSION	COMPARISON TO SENATE
Salaries and wages	\$5,099,584	\$5,084,105	(\$5,117)	\$5,078,988	\$5,078,988	
Operating expenses	1,408,153	1,408,153		1,408,153	1,408,153	
Capital assets	58,511	58,511	30,000	88,511	88,511	
Grants	7,000	7,000		7,000	7,000	
Abandoned mined lands contractual services	3,668,492	3,668,492		3,668,492	3,668,492	
Rail rate complaint case	<u>900,000</u>	<u>1,200,000</u>	<u>(255,000)</u>	<u>945,000</u>	<u>970,000</u>	<u>(\$25,000)</u>
Total all funds	\$11,141,740	\$11,426,261	(\$230,117)	\$11,196,144	\$11,221,144	(\$25,000)
Less estimated income	<u>5,985,139</u>	<u>7,178,283</u>	<u>(256,763)</u>	<u>6,921,520</u>	<u>6,946,520</u>	<u>(25,000)</u>
General fund	\$5,156,601	\$4,247,978	\$26,646	\$4,274,624	\$4,274,624	\$0
FTE	41.00	41.00	0.00	41.00	41.00	0.00

Dept. 408 - Public Service Commission - Detail of Conference Committee Changes

	REDUCES RECOMMENDED FUNDING FOR HEALTH INSURANCE ¹	REDUCES RAIL CASE FUNDING ²	ADDS FUNDING FOR SOUND SYSTEM ³	TOTAL CONFERENCE COMMITTEE CHANGES
Salaries and wages	(\$5,117)			(\$5,117)
Operating expenses				
Capital assets			\$30,000	30,000
Grants				
Abandoned mined lands contractual services				
Rail rate complaint case		<u>(\$255,000)</u>		<u>(255,000)</u>
Total all funds	(\$5,117)	(\$255,000)	\$30,000	(\$230,117)
Less estimated income	<u>(1,763)</u>	<u>(255,000)</u>		<u>(256,763)</u>
General fund	(\$3,354)	\$0	\$30,000	\$26,646
FTE	0.00	0.00	0.00	0.00

¹ This amendment reduces funding for state employee health insurance premiums from \$559.15 to \$553.95 per month.

² The conference committee reduced the funding for the rail rate complaint case to \$945,000, of which \$800,000 is from the beginning farmer revolving loan fund; \$20,000 from carryover authority from the state rail fund, maintained by the Department of Transportation under Section 49-17.1-02.1; and \$125,000 from the shipper participating in the rail rate case and other sources. The Public Service Commission must have written commitments for the \$125,000 from other sources before spending any moneys from the beginning farmer revolving loan fund.

The Senate had reduced the funding for the rail rate complaint case from \$1,200,000 to \$970,000, of which \$800,000 was from the beginning farmer revolving loan fund and \$170,000 from other sources.

³ The conference committee agreed with the Senate amendment which added funding for improvements to the sound system in the Public Service Commission hearing room.

The conference committee agreed with the Senate amendment adding legislative intent that the Public Service Commission hearing room be available to other state agencies and the Legislative Assembly when not in use by the Public Service Commission.

The conference committee changed the study of the Public Service Commission fees and services to a study of the changes in duties and responsibilities of the Public Service Commission.

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

CONSIDERATION OF CONFERENCE COMMITTEE REPORT

SEN. SCHOBINGER MOVED that the conference committee report on Engrossed HB 1008 be adopted, which motion prevailed on a voice vote.

Engrossed HB 1008, as amended, was placed on the Fourteenth order.

SECOND READING OF HOUSE BILL

HB 1008: A BILL for an Act to provide an appropriation for defraying the expenses of the public service commission; to provide an appropriation for a rail rate complaint case; to amend and reenact section 49-01-05 of the North Dakota Century Code, relating to the salary of public service commissioners; to provide for a legislative council study; to provide an exemption to section 54-44.1-11 relating to unexpended appropriations; to provide legislative intent; and to declare an emergency.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 45 YEAS, 0 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

YEAS: Andrist; Bercier; Bowman; Brown; Christmann; Cook; Dever; Erbele; Espgaard; Every; Fairfield; Fischer; Flakoll; Freborg; Grindberg; Hacker; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Mutch; Nelson; Nething; O'Connell; Robinson; Schobinger; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Triplett; Warner

ABSENT AND NOT VOTING: Urlacher; Wardner

Engrossed HB 1008, as amended, passed, the title was agreed to, and the emergency clause was declared carried.

REPORT OF CONFERENCE COMMITTEE

HB 1009, as engrossed: Your conference committee (Sens. Bowman, Thane, Krauter and Reps. Kempenich, Carlisle, Kroeber) recommends that the **SENATE RECEDE** from the Senate amendments on HJ pages 1524-1526, adopt amendments as follows, and place HB 1009 on the Seventh order:

That the Senate recede from its amendments as printed on pages 1524-1526 of the House Journal and pages 1190-1192 of the Senate Journal and that Engrossed House Bill No. 1009 be amended as follows:

Page 1, line 2, remove "4-01-19,"

Page 1, line 3, remove "pride of Dakota program, the"

Page 1, line 5, after "fees" insert "; to provide a contingent appropriation; to provide for a legislative council study"

Page 2, line 7, replace "1,211,582" with "1,243,463"

Page 2, line 8, replace "822,550" with "896,050"

Page 2, line 11, replace "1,310,099" with "1,309,224"

Page 2, after line 11, insert:

"Contingent appropriation - wildlife services

130,000"

Page 2, remove line 17

Page 2, line 19, replace "1,520,341" with "1,554,847"

Page 2, line 20, replace "1,318,026" with "1,294,916"

Page 2, line 21, replace "202,315" with "259,931"

Page 2, line 27, replace "5,706,552" with "5,738,433"

Page 2, line 28, replace "4,182,375" with "4,255,875"

Page 2, line 31, replace "2,179,563" with "2,178,688"

Page 2, after line 31, insert:

"Contingent appropriation - wildlife services 130,000"

Page 3, line 1, replace "225,000" with "25,000"

Page 3, line 2, replace "14,072,715" with "14,107,221"

Page 3, line 3, replace "9,636,875" with "9,613,765"

Page 3, line 4, replace "4,435,840" with "4,493,456"

Page 3, line 7, replace "\$2,805,077" with "\$2,855,077"

Page 3, remove lines 22 through 30

Page 8, after line 24, insert:

"SECTION 13. CONTINGENT APPROPRIATION - WILDLIFE SERVICES.

The contingent appropriation - wildlife services contained in section 3 of this Act is a contingent appropriation out of any moneys in the game and fish fund, not otherwise appropriated, to the agriculture commissioner for the wildlife services program. This funding is in addition to the funding identified in section 6 of this Act. If the federal funding for the cooperative wildlife damage management program for North Dakota wildlife services for federal fiscal year 2006 is less than \$400,000, then \$65,000 of the appropriation is available for wildlife services programs and if the same federal funding is less than \$400,000 for federal fiscal year 2007, an additional \$65,000 of the appropriation is available for wildlife services programs.

SECTION 14. LEGISLATIVE COUNCIL STUDY - MEAT INSPECTION LICENSE FEES. The legislative council shall consider studying, during the 2005-06 interim, the feasibility and desirability of implementing a license fee for businesses receiving state meat inspection program services and whether the fee would impact the number of businesses that would use the federal meat inspection service rather than the state service. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixtieth legislative assembly."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

House Bill No. 1009 - Department of Agriculture - Conference Committee Action

	EXECUTIVE BUDGET	HOUSE VERSION	CONFERENCE COMMITTEE CHANGES	CONFERENCE COMMITTEE VERSION	SENATE VERSION	COMPARISON TO SENATE
Salaries and wages	\$5,766,637	\$5,706,552	\$31,881	\$5,738,433	\$5,738,433	
Operating expenses	4,358,278	4,182,375	73,500	4,255,875	4,255,875	
Capital assets	5,000	5,000		5,000	5,000	
Grants	1,524,225	1,774,225		1,774,225	1,724,225	\$50,000
Board of Animal Health	2,374,832	2,179,563	(875)	2,178,688	2,178,688	
Crop Harmonization Board	225,000	225,000	(200,000)	25,000	25,000	
Contingent appropriation			130,000	130,000	130,000	
Total all funds	\$14,253,972	\$14,072,715	\$34,506	\$14,107,221	\$14,057,221	\$50,000
Less estimated income	<u>9,368,014</u>	<u>9,636,875</u>	<u>(23,110)</u>	<u>9,613,765</u>	<u>9,563,765</u>	<u>50,000</u>
General fund	\$4,885,958	\$4,435,840	\$57,616	\$4,493,456	\$4,493,456	\$0
FTE	61.00	61.00	0.00	61.00	61.00	0.00

Dept. 602 - Department of Agriculture - Detail of Conference Committee Changes

	REDUCES RECOMMENDED FUNDING FOR HEALTH INSURANCE 1	REMOVES FUNDING FOR CROP HARMONIZATION BOARD 2	INCREASES FUNDING FOR PROJECT SAFE SEND 3	RESTORES FUNDING FOR MEAT INSPECTION PROGRAM 4	ADDS CONTINGENT FUNDING FOR WILDLIFE SERVICES 5	TOTAL CONFERENCE COMMITTEE CHANGES
Salaries and wages	(\$6,114)			\$37,995		\$31,881
Operating expenses			\$50,000	23,500		73,500
Capital assets						
Grants						
Board of Animal Health	(875)					(875)
Crop Harmonization Board		(\$200,000)				(200,000)
Contingent appropriation					\$130,000	130,000
Total all funds	(\$6,989)	(\$200,000)	\$50,000	\$61,495	\$130,000	\$34,506
Less estimated income	(3,110)	(200,000)	50,000		130,000	(23,110)
General fund	(\$3,879)	\$0	\$0	\$61,495	\$0	\$57,616
FTE	0.00	0.00	0.00	0.00	0.00	0.00

1 This amendment reduces funding for state employee health insurance premiums from \$559.15 to \$553.95 per month.

2 The Senate reduced the appropriation authority for the Crop Harmonization Board which is not needed because of continuing appropriation authority.

3 The Senate increased funding for Project Safe Send by \$50,000 from the environment and rangeland protection fund.

4 The Senate restored funding for a meat inspector position and related operating expenses.

5 The Senate added \$130,000 from the game and fish fund, contingent on federal funds not being available for the program. If the federal funding for the cooperative wildlife damage management program for North Dakota Wildlife Services for federal fiscal year 2006 is less than \$400,000, then \$65,000 of game and fish funds are appropriated for wildlife services programs. If the federal funding for the cooperative wildlife damage management program for North Dakota Wildlife Services for federal fiscal year 2007 is less than \$400,000, then \$65,000 of game and fish funds are appropriated for wildlife services programs.

The conference committee restored \$50,000 from the environment and rangeland protection fund for saltcedar surveys and eradication. The Senate had reduced funding by this amount.

The conference committee provided for a Legislative Council study of the feasibility and desirability of implementing a license fee for businesses receiving services under the state meat inspection program.

Engrossed HB 1009 was placed on the Seventh order of business on the calendar.

CONSIDERATION OF CONFERENCE COMMITTEE REPORT

SEN. KRAUTER MOVED that the conference committee report on Engrossed HB 1009 be adopted, which motion prevailed on a voice vote.

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

SECOND READING OF HOUSE BILL

HB 1009: A BILL for an Act to provide an appropriation for defraying the expenses of the agriculture commissioner; to amend and reenact sections 4-01-21, 4-22-22, 4-37-03, 4-37-04, and 19-18-04 of the North Dakota Century Code, relating to the salary of the agriculture commissioner, compensation of supervisors of soil conservation districts, the agriculture in the classroom program, and pesticide registration fees; to provide a contingent appropriation; to provide for a legislative council study; and to provide for 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 45 YEAS, 0 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

YEAS: Andrist; Bercier; Bowman; Brown; Christmann; Cook; Dever; Erbele; Espgaard; Every; Fairfield; Fischer; Flakoll; Freborg; Grindberg; Hacker; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Mutch; Nelson; Nething; O'Connell; Robinson; Schobinger; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Triplett; Warner

ABSENT AND NOT VOTING: Urlacher; Wardner

Engrossed HB 1009, as amended, passed and the title was agreed to.

REPORT OF CONFERENCE COMMITTEE

HB 1252, as reengrossed: Your conference committee (Sens. J. Lee, Fischer, Mathern and Reps. Price, Delzer, Sandvig) recommends that the **SENATE RECEDE** from the Senate amendments on HJ pages 1568-1569, adopt amendments as follows, and place HB 1252 on the Seventh order:

That the Senate recede from its amendments as printed on pages 1568 and 1569 of the House Journal and pages 847 and 848 of the Senate Journal and that Reengrossed House Bill No. 1252 be amended as follows:

Page 4, line 7, replace "three" with "four"

Renumber accordingly

Reengrossed HB 1252 was placed on the Seventh order of business on the calendar.

CONSIDERATION OF CONFERENCE COMMITTEE REPORT

SEN. J. LEE MOVED that the conference committee report on Reengrossed HB 1252 be adopted, which motion prevailed on a voice vote.

Reengrossed HB 1252, as amended, was placed on the Fourteenth order.

SECOND READING OF HOUSE BILL

HB 1252: A BILL for an Act to amend and reenact sections 50-24.4-06 and 50-24.4-10, subsection 1 of section 50-24.4-11, sections 50-24.4-13, 50-24.4-14, 50-24.4-16, 50-24.4-19, and 50-24.4-27, and subsection 3 of section 50-24.5-02 of the North Dakota Century Code, relating to nursing home rates and basic care rates; and to repeal section 50-24.4-09 of the North Dakota Century Code, relating to interim rates for nursing homes.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 36 YEAS, 9 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

YEAS: Andrist; Bowman; Brown; Christmann; Cook; Dever; Erbele; Espegard; Fairfield; Fischer; Flakoll; Freborg; Grindberg; Hacker; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Mutch; Nething; Robinson; Schobinger; Seymour; Stenehjem; Syverson; Tallackson; Tollefson; Traynor; Trenbeath

NAYS: Bercier; Every; Heitkamp; Nelson; O'Connell; Taylor; Thane; Triplett; Warner

ABSENT AND NOT VOTING: Urlacher; Wardner

Reengrossed HB 1252, as amended, passed and the title was agreed to.

MESSAGE TO THE SENATE FROM THE HOUSE (BRADLEY C. FAY, CHIEF CLERK)

MR. PRESIDENT: The House does not concur in the Senate amendments to HB 1015 and the Speaker has appointed as a conference committee to act with a like committee from the Senate on:

HB 1015: Reps. Berg; Svedjan; Boucher

APPOINTMENT OF CONFERENCE COMMITTEE

SEN. CHRISTMANN MOVED that the President appoint a committee of three to act with a like committee from the House as a Conference Committee on Engrossed HB 1015, which motion prevailed.

THE PRESIDENT APPOINTED as a Conference Committee on Engrossed HB 1015: Sens. Stenehjem, Holmberg, O'Connell.

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

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

HB 1015: Sens. Stenehjerm; Holmberg; O'Connell

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 1009, HB 1252.

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)
MR. SPEAKER: The Senate has adopted the conference committee report on: HB 1004.

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)
MR. SPEAKER: The Senate has adopted the conference committee report, subsequently passed, and the emergency clause carried: HB 1002, HB 1003, HB 1008.

MESSAGE TO THE SENATE FROM THE HOUSE (BRADLEY C. FAY, CHIEF CLERK)
MR. PRESIDENT: The Speaker has appointed Rep. Gulleson to replace Rep. Aarsvold on the Conference Committee on HB 1013.

MESSAGE TO THE SENATE FROM THE HOUSE (BRADLEY C. FAY, CHIEF CLERK)
MR. PRESIDENT: The House has adopted the conference committee report and subsequently passed: HB 1010, HB 1016, HB 1195, HB 1397.

MESSAGE TO THE SENATE FROM THE HOUSE (BRADLEY C. FAY, CHIEF CLERK)
MR. PRESIDENT: The House has adopted the conference committee report, subsequently passed, and the emergency clause carried: HB 1018.

MOTION

SEN. CHRISTMANN MOVED that the Senate be on the Fourth, Fifth, Seventh, and Sixteenth orders of business and at the conclusion of those orders, the Senate stand adjourned until 8:00 a.m., Friday, April 22, 2005, which motion prevailed.

REPORT OF CONFERENCE COMMITTEE

HB 1010, as engrossed: Your conference committee (Sens. Grindberg, Kringstad, Tallackson and Reps. Timm, Carlisle, Williams) recommends that the **SENATE RECEDE** from the Senate amendments on HJ page 1628, adopt amendments as follows, and place HB 1010 on the Seventh order:

That the Senate recede from its amendments as printed on page 1628 of the House Journal and page 1344 of the Senate Journal and that Engrossed House Bill No. 1010 be amended as follows:

Page 1, line 3, after the semicolon insert "to provide for a legislative council study;"

Page 1, line 21, replace "361,269" with "355,279"

Page 1, line 22, replace "331,876" with "381,876"

Page 2, line 1, replace "2,116,000" with "1,116,000"

Page 2, line 2, replace "2,702,245" with "1,746,255"

Page 2, line 3, replace "2,802,245" with "1,846,255"

Page 2, line 10, replace "5,059,647" with "5,053,657"

Page 2, line 11, replace "2,113,377" with "2,163,377"

Page 2, line 12, replace "7,420,000" with "6,420,000"

Page 2, line 13, replace "14,593,024" with "13,637,034"

Page 2, line 15, replace "\$7,420,000" with "\$6,420,000"

Page 2, line 16, replace "\$7,200,000" with "\$6,200,000"

Page 3, after line 9, insert:

"SECTION 10. CRITICAL METHAMPHETAMINE-USE ZONE ADDITION.
 Notwithstanding rules adopted by the commissioner identifying a critical methamphetamine-use zone, the commissioner shall designate the counties of Walsh, Cavalier, and Pembina as a critical methamphetamine-use zone subject to section

19-20.2-11 and rules adopted pursuant to that section. Section 3 of this Act includes the sum of \$50,000 from the insurance regulatory trust fund, or so much of the sum as is necessary, to implement security measures established by the commissioner, including the purchase and distribution of locking devices, in the counties of Walsh, Cavalier, and Pembina, for the biennium beginning July 1, 2005, and ending June 30, 2007.

SECTION 11. LEGISLATIVE COUNCIL STUDY - HEALTH CARE AND HEALTH INSURANCE STUDY PROPOSAL. During the 2005-06 interim, the legislative council shall consider studying the desirability of proposing a comprehensive health care and health insurance study to be performed during the 2007-08 interim. The 2005-06 interim study must include consideration of whether there is a need for a comprehensive, long-range study of the state's current and future health care needs in order to address issues such as the aging population of the state, the phenomenon of health care cost-shifting to the private sector, the trend of uncompensated health care services, shortages in the number of health care professionals, duplication of technology and facilities, and any other factors that might affect the health care system in North Dakota in the year 2020. If the study results in a proposal for a comprehensive health care and health insurance study, the proposal must address the parameters of the proposed study and how the proposed study will be designed in order to allow for significant consumer input. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixtieth legislative assembly.

SECTION 12. LEGISLATIVE COUNCIL STUDY - ACCIDENT AND HEALTH INSURANCE LOSS RATIOS. During the 2005-06 interim, the legislative council shall study the appropriate minimum standard of loss ratio for accident and health insurers and whether that loss ratio is more appropriately set by statute or by rule. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixtieth legislative assembly."

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	\$5,080,549	\$5,059,647	(\$5,990)	\$5,053,657	\$5,053,657	
Operating expenses	2,113,377	2,113,377	50,000	2,163,377	2,163,377	
Grants	5,304,000	7,420,000	(1,000,000)	6,420,000	6,395,000	\$25,000
Health care and insurance study						
Total all funds	\$12,497,926	\$14,593,024	(\$955,990)	\$13,637,034	\$13,612,034	\$25,000
Less estimated income	<u>12,497,926</u>	<u>14,593,024</u>	<u>(\$955,990)</u>	<u>13,637,034</u>	<u>13,612,034</u>	<u>25,000</u>
General fund	\$0	\$0	\$0	\$0	\$0	\$0
FTE	46.50	46.50	0.00	46.50	46.50	0.00

Dept. 401 - Insurance Department - Detail of Conference Committee Changes

	REDUCES RECOMMENDED FUNDING FOR HEALTH INSURANCE 1	PROVIDES FUNDING FOR IMPLEMENTING METHAMPHETAMINE SECURITY MEASURES 2	REDUCES FUNDING FOR PAYMENTS TO FIRE DEPARTMENTS 3	TOTAL CONFERENCE COMMITTEE CHANGES
Salaries and wages	(\$5,990)			(\$5,990)
Operating expenses		\$50,000		50,000
Grants			(\$1,000,000)	(1,000,000)
Health care and insurance study				
Total all funds	(\$5,990)	\$50,000	(\$1,000,000)	(\$955,990)
Less estimated income	<u>(5,990)</u>	<u>50,000</u>	<u>(1,000,000)</u>	<u>(955,990)</u>
General fund	\$0	\$0	\$0	\$0
FTE	0.00	0.00	0.00	0.00

¹ This amendment reduces funding for state employee health insurance premiums from \$559.15 to \$553.95 per month.

² The conference committee agreed with the Senate amendment to provide a \$50,000 special funds appropriation from the insurance regulatory trust fund for implementing methamphetamine security measures, including the purchase and distribution of locking devices. The conference committee also agreed with the Senate amendment to add a new section to the bill allowing the commissioner to designate the counties of Walsh, Cavalier, and Pembina as a critical methamphetamine-use zone.

³ The conference committee agree with the Senate amendment to reduce funding provided from the insurance premium tax collections for payments to fire departments by \$1 million, from \$7.2 million as provided by the House to \$6.2 million. Funding of \$6.2 million represents an increase in funding of \$1 million from the \$5.2 million provided in the 2003-05 biennium.

The conference committee agreed to provide funding of \$100,000 from insurance premium tax collections for a grant to the North Dakota Association of Oil and Gas Producing Counties, the same level as provided by the House. The Senate had reduced funding for the grant by \$25,000, from \$100,000 to \$75,000.

The conference committee agreed with the Senate amendment to add a section to the bill to provide for a Legislative Council study of accident and health insurance loss ratios.

The conference committee also agreed to add a section to the bill to provide for a Legislative Council study of health care and health insurance. This study was not included in either the House or Senate version of the bill.

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

REPORT OF CONFERENCE COMMITTEE

HB 1016, as engrossed: Your conference committee (Sens. Grindberg, Andrist, Lindaas and Reps. Carlson, Skarphol, Glassheim) recommends that the **SENATE RECEDE** from the Senate amendments on HJ pages 1564-1568, adopt amendments as follows, and place HB 1016 on the Seventh order:

That the Senate recede from its amendments as printed on pages 1564-1568 of the House Journal and pages 1262-1266 of the Senate Journal and that Engrossed House Bill No. 1016 be amended as follows:

Page 1, line 1, replace "division" with "department"

Page 1, line 2, replace "management" with "services" and replace "911 services" with "the department of emergency services"

Page 1, line 4, remove "and" and replace "require political subdivision financial participation in the state radio" with "provide a statement of legislative intent; to provide for a department of emergency services and an advisory committee; and to amend and reenact subdivision b of subsection 2 of section 28-32-01, subsection 3 of section 37-17.1-05, sections 37-17.1-06, 37-17.1-07, 37-17.1-07.1, 37-17.1-11, 37-17.1-13, 37-17.1-14, 37-17.1-14.1, 37-17.1-15, 37-17.1-22, and 37-17.1-23, subsection 2 of section 39-01-01, and sections 39-10-03.2, 54-23.2-01, 54-23.2-04.1, 54-23.2-09, 57-40.6-11, 57-40.6-12, 61-16.2-03, and 65-06-01 of the North Dakota Century Code, relating to the department of emergency services."

Page 1, remove line 5

Page 1, line 8, replace "division" with "department"

Page 1, line 9, replace "management" with "services"

Page 1, line 19, replace "division" with "department" and replace "management" with "services"

Page 1, line 21, replace "3,760,579" with "3,540,596"

Page 1, line 24, replace "13,062,469" with "13,062,469"

Page 1, after line 24, insert:

"Salaries and wages pool

213,493"

Page 2, line 1, replace "23,457,783" with "23,451,293"

Page 2, line 2, replace "19,733,090" with "19,730,151"

Page 2, line 3, replace "3,724,693" with "3,721,142"

Page 2, line 7, replace "division" with "department" and replace "management" with "services"

Page 2, line 10, replace "6,798,138" with "6,578,155"

Page 2, line 13, replace "46,962,054" with "46,962,054"

Page 2, after line 13, insert:

"Salaries and wages pool 213,493"

Page 2, line 14, replace "62,043,959" with "62,037,469"

Page 2, line 15, replace "56,950,231" with "56,947,292"

Page 2, line 16, replace "5,093,728" with "5,090,177"

Page 2, line 20, replace "division" with "department"

Page 2, line 21, replace "management" with "services"

Page 2, replace lines 22 through 29 with:

"SECTION 5. PERFORMANCE AUDIT - DEPARTMENT OF EMERGENCY SERVICES. The state auditor shall conduct a performance audit of the department of emergency services, including a review of fees collected for 911 services and the utilization of the fees during the biennium beginning July 1, 2005, and ending June 30, 2007. If possible, the audit should include options for the appropriate method of funding costs incurred by the department for providing 911 services, including the costs incurred by the department for answering calls from counties not under contract with the division for 911 services. The state auditor must be granted access to all county and county consortium records pertaining to 911 information. The results of the audit must be presented to the legislative audit and fiscal review committee and filed with the appropriations committee of the sixtieth legislative assembly."

Page 2, line 30, after "**COMMUNICATIONS**" insert "**SYSTEM**" and after "**AUTHORIZATION**" insert "**- BUDGET SECTION APPROVAL**"

Page 2, line 31, replace "division" with "department"

Page 3, line 1, replace "management" with "services"

Page 3, line 4, replace "only may be provided if the division has the prior written approval to repay any" with ", including interest, is to be repaid with federal funds made available from the United States department of homeland security."

Page 3, remove line 5

Page 3, line 6, remove "department of homeland security." and replace "division" with "department"

Page 3, line 9, replace "division" with "department" and replace "management" with "services"

Page 3, line 10, replace "division's" with "department's"

Page 3, line 13, replace "division" with "department"

Page 3, line 14, remove "an appropriate committee of"

Page 3, line 16, replace "assessment" with "assessments" and replace "division" with "department and political subdivisions"

Page 3, replace lines 18 through 22 with:

"SECTION 8. LEGISLATIVE INTENT - STATE RADIO COMMUNICATIONS SYSTEM MIGRATION PROJECT - POLITICAL SUBDIVISION FINANCIAL PARTICIPATION. It is the intent of the fifty-ninth legislative assembly that political subdivisions spend a portion of the federal homeland security funding allocations on costs associated with the migration of the state radio communications system from analog to digital.

SECTION 9. LEGISLATIVE INTENT - STATE RADIO COMMUNICATIONS SYSTEM MIGRATION PROJECT. It is the intent of the fifty-ninth legislative assembly that the office of management and budget address all remaining costs associated with the migration of the state radio communications system from analog to digital in the department's budget request for the 2007-09 biennium.

SECTION 10. SALARIES AND WAGES POOL - BUDGET SECTION APPROVAL. The department, in conjunction with the North Dakota human resource management services division of the office of management and budget, shall reevaluate job classifications impacted by the department's reorganization. The department shall report the positions affected by the department's reorganization and a detailed justification of any prior salary increases and a recommendation and analysis of any proposed salary increases or decreases to the budget section. The sum of \$213,493, or so much of the sum as may be necessary, included in the salaries and wages pool line item in section 3 of this Act, is available to the department for providing salary increases to positions affected by the reorganization subject to budget section approval.

SECTION 11. AMENDMENT. Subdivision b of subsection 2 of section 28-32-01 of the North Dakota Century Code is amended and reenacted as follows:

- b. The adjutant general with respect to the ~~division of emergency management~~ department of emergency services.

SECTION 12. Department of emergency services.The department of emergency services consists of a division of state radio and a division of homeland security. The adjutant general is the director of the department. The adjutant general shall provide for shared administration of both divisions. The division of homeland security consists of the state operations center section, the disaster recovery section, and the homeland security section. The adjutant general shall appoint a separate director of each division. A division director serves at the pleasure of the adjutant general. The adjutant general shall fix the compensation of a division director within limits of legislative appropriation.

SECTION 13. Advisory committee to department of emergency services. The adjutant general shall create one or more advisory committees to the department of emergency services. An advisory committee may consist of not more than eleven members representing local and state interests in the department. Members must be appointed to four-year staggered terms. An advisory committee shall advise the department regarding collaboration with political subdivisions, and each member of an advisory committee shall report to the local interest each member represents concerning recommendations approved by the committee. Each member of the advisory committee is entitled to be paid sixty-two dollars and fifty cents per day for time spent in attendance at meetings and is entitled to be reimbursed for the member's actual and necessary expenses at the rates and in the manner provided by law for other state officers. The compensation and expenses must be paid out of department appropriations.

SECTION 14. AMENDMENT. Subsection 3 of section 37-17.1-05 of the North Dakota Century Code is amended and reenacted as follows:

3. A disaster or emergency must be declared by executive order or proclamation of the governor if the governor determines a disaster has occurred or a state of emergency exists. The state of disaster or emergency shall continue until the governor determines that the threat of an emergency has passed or the disaster has been dealt with to the extent that emergency conditions no longer exist. The legislative assembly by concurrent resolution may terminate a state of disaster or emergency at any time. All executive orders or proclamations issued under this subsection must indicate the nature of the disaster or emergency, the area or areas threatened, the conditions which have brought it about or which make possible termination of the state of disaster or emergency. An executive order or proclamation must be disseminated promptly by means calculated to bring its contents to the attention of the general public, unless the circumstances attendant upon the disaster or emergency prevent or impede such dissemination, and it must be promptly filed with the ~~division of emergency management~~ department of emergency services, the secretary of state, and the county or city auditor of the jurisdictions affected.

SECTION 15. AMENDMENT. Section 37-17.1-06 of the North Dakota Century Code is amended and reenacted as follows:

37-17.1-06. State division of ~~emergency management~~ homeland security.

1. A The division of emergency management is hereby established in the office of the adjutant general. The division shall have a director appointed

~~by, and to serve at the pleasure of, the adjutant general and the director's compensation must be fixed by the adjutant general within the legislative appropriations.~~ The division shall homeland security, must have other professional, technical, secretarial, and clerical employees as necessary for the performance of its functions. The director of the division shall fix the compensation of the staff in conformity with state merit system regulations and may make such expenditures within the appropriations therefor, or from other funds made available to the director for purposes of emergency management, as may be necessary to carry out the purposes of this chapter.

2. The division of ~~emergency management~~ homeland security shall prepare and maintain a state disaster plan and keep it current, which plan may include provisions for:
 - a. Averting or minimizing the injury and damage caused by disasters or emergencies.
 - b. Prompt and effective response to a disaster or emergency.
 - c. Emergency relief.
 - d. Identification of areas particularly vulnerable to a disaster or emergency.
 - e. Recommendations for zoning, building, and other land use controls, safety measures for securing mobile homes or other nonpermanent or semipermanent structures, and other mitigation and preparedness measures.
 - f. Assistance to local officials in developing and maintaining local emergency management systems.
 - g. Authorization and procedures for the erection or other construction of temporary works designed to protect against or mitigate danger, damage, or loss from any disaster or emergency.
 - h. Preparation and distribution of emergency management assistance program guidance to the appropriate state and local officials.
 - i. Organization of manpower and chains of command.
 - j. Coordination of federal, state, and local emergency management activities.
 - k. Coordination of state disaster or emergency operations plans with the disaster or emergency plans of the federal government.
 - l. Other necessary matters.
3. The division of ~~emergency management~~ homeland security shall take an integral part in the development and revision of local disaster or emergency operations plans prepared under section 37-17.1-07. To this end it shall employ or otherwise secure the services of professional and technical personnel capable of providing expert assistance to local emergency management organizations. These personnel shall consult with local emergency management organizations on a regularly scheduled basis and shall make field examinations of the areas, circumstances, and conditions to which particular local disaster or emergency plans are intended to apply and may suggest or require revisions.
4. In preparing and revising state disaster or emergency plans, the division of ~~emergency management~~ homeland security shall seek the advice and assistance of local government, business, labor, industry, agriculture, civic, and volunteer organizations and community leaders. In advising local emergency management organizations, the division shall encourage them also to seek advice from these sources.
5. State disaster or emergency plans or any parts thereof have the force of law upon implementation by the governor.

6. The division of ~~emergency management~~ homeland security shall:
- a. Coordinate the procurement and prepositioning of supplies, materials, and equipment for disaster or emergency operations.
 - b. Provide guidance and standards for local disaster or emergency operational plans.
 - c. Periodically review local disaster or emergency operational plans.
 - d. Coordinate state or state and federal assistance to local emergency management organizations.
 - e. Establish and operate or assist local emergency management organizations to establish and operate training programs and programs for emergency public information.
 - f. Make surveys of industries, resources, and facilities, within the state, both public and private, as are necessary to carry out the purposes of this chapter. The use of sensitive and proprietary logistical data submitted to the state in confidence by individual industries and suppliers must be accorded full confidentiality and will be released only in aggregate form.
 - g. Plan and make arrangements for the availability and use of any private facilities, services, and property, and, if necessary and if in fact used, coordinate payment for that use under terms and conditions agreed upon.
 - h. Establish access to a register of persons with types of training and skills important in mitigation, preparedness, response, and recovery.
 - i. Establish access to a register of equipment and facilities available for use in a disaster or emergency.
 - j. Prepare, for issuance by the governor, executive orders, proclamations, and guidance as necessary or appropriate in managing a disaster or emergency.
 - k. Coordinate with the federal government and any public or private agency or entity in achieving any purpose of this chapter and in implementing programs for disaster mitigation, preparation, response, and recovery.
 - l. Be the state search and rescue coordinating agency, establish access to a register of search and rescue equipment and personnel in the state, and plan for its effective utilization in carrying out the search for and rescue of persons when no violation of criminal laws exists.
 - m. Do other things necessary, incidental, or appropriate for the implementation of this chapter.

SECTION 16. AMENDMENT. Section 37-17.1-07 of the North Dakota Century Code is amended and reenacted as follows:

37-17.1-07. Local emergency management organizations.

1. All areas of the state are within the jurisdiction of and must be served by the division of ~~emergency management~~ homeland security and by a local emergency management organization.
2. Each county shall maintain an emergency management organization which serves the entire county.
3. Each city shall provide an emergency management organization of its own, or it shall participate in the countywide emergency management organization. Each governing board of a city shall make its determination on the basis of the city's emergency management requirements, hazards, capabilities, and resources. The division of ~~emergency management~~

homeland security shall publish and keep current a list of cities desiring to have an emergency management organization of their own.

4. The mayor of a city or chairman of the board of county commissioners shall notify the division of ~~emergency management~~homeland security of the manner in which the city or county is providing or securing emergency management activities, identify the person who will coordinate the activities of the local emergency management organization, and furnish additional information relating thereto as the division requires.
5. Each local emergency management organization shall prepare and keep current a local disaster or emergency operational plan for its area.
6. The local emergency management organization shall prepare and distribute to all appropriate officials in written form a clear and complete statement of the disaster or emergency responsibilities of their local agencies and officials.

SECTION 17. AMENDMENT. Section 37-17.1-07.1 of the North Dakota Century Code is amended and reenacted as follows:

37-17.1-07.1. Hazardous chemicals preparedness and response program.

1. ~~Program components:~~
 - a. ~~State emergency response commission:~~ The governor shall appoint members of the state emergency response commission to carry out the commission's responsibilities as outlined in Public Law 99-499, 42 U.S.C. 11001, et seq., also referred to as SARA title III, and the responsibilities of the commission members as outlined in the North Dakota emergency operations plan.
 - b. ~~Program development:~~ In conjunction with the state emergency response commission, the local emergency planning committees, and the local emergency management organizations, the division of ~~emergency management~~ homeland security shall coordinate the development and maintenance of a state hazardous chemicals preparedness and response program.
 - c. ~~Chairperson:~~ The director of the division of ~~emergency management~~ homeland security shall serve as the ~~chairperson~~ chairman of the state emergency response commission. In the absence of the ~~chairperson~~ chairman, the designated vice ~~chairperson~~ chairman shall serve as ~~chairperson~~ chairman. The ~~chairperson~~ chairman shall recognize the assignment of representatives to the commission who are designated through a delegation of authority by a member. The ~~chairperson~~ chairman shall designate a commission secretary, solely for the purpose of documenting and distributing clerical proceedings, from the staff of the division of ~~emergency management~~ homeland security.
 - d. ~~Facility reporting:~~ For the purpose of complying with the reporting requirements set forth in sections 302, 304, 311, 312, and 313 of Public Law 99-499, 42 U.S.C. 11001, et seq., also referred to as SARA title III, the owner and operator of any facility, as defined in SARA title III, shall submit those reports to the North Dakota division of ~~emergency management~~ homeland security as required by SARA title III, which shall establish and maintain the state repository for these reports.
2. ~~Establishment of funds:~~
 - a. ~~State hazardous chemicals preparedness and response fund:~~ There is created in the state treasury a nonlapsing restricted account to be known as a state hazardous chemicals preparedness and response fund. The fund consists of revenue collected from the state hazardous chemical fee system and funds appropriated by the general assembly. Moneys in the fund shall be appropriated biennially to the division of ~~emergency management~~ homeland security for carrying out the purposes, goals, and objectives of SARA

title III, and the state hazardous chemicals preparedness and response program.

- b. ~~County hazardous chemicals preparedness and response account.~~ The county treasurer of each county shall establish a nonlapsing restricted account, to be known as the county hazardous chemicals preparedness and response account. The county hazardous chemicals preparedness and response account consists of revenue from the state hazardous chemicals fee system, county, federal or state funds, grants, and any private donations provided to finance the county hazardous chemicals preparedness and response program.
 - c. ~~Facility fee system.~~ Each owner and operator of a facility, as defined in SARA title III, shall pay an annual hazardous chemicals fee to the division of ~~emergency management~~ homeland security by March first of each year. The fee is twenty-five dollars for each chemical within the meaning of 40 CFR 355.20 or its successor which is required under section 312 of SARA, title III, to be listed on the hazardous chemical inventory form (tier II) which the owner or operator must submit to the division. The federal requirements must be used for completing the tier II form, including the threshold amounts, as outlined in 40 CFR 370.20. The maximum fee for a facility under this section is one hundred fifty dollars. The division of ~~emergency management~~ homeland security shall transfer to the county hazardous chemicals preparedness and response account one-half of the funds collected from the state's hazardous chemicals fee system.
 - d. ~~Exemptions.~~ The owners or operators of family farm enterprises that are not engaged in the retail or wholesale of hazardous chemicals and facilities owned by the state or local governments are exempt from the fee under subdivision c. For purposes of this section, the terms "family farm" and "farmer" have the same meaning as set forth in section 6-09.11-01.
 - e. ~~Accept funding.~~ The state and county governments are authorized to accept and may deposit grants, gifts, and federal funds into the hazardous chemicals preparedness and response fund and accounts for the purpose of carrying out the hazardous chemicals preparedness and response program.
 - f. ~~Definition.~~ "Hazardous chemical" means as defined in 40 CFR 355.20 and 29 CFR 1910.1200.
 - g. ~~City fee system.~~ The state hazardous chemicals fee system does not supersede a city fee system for hazardous chemicals.
3. ~~Recovery of response costs.~~
- a. ~~General rule.~~ A person who causes a release, as defined in 40 CFR 355.20, of a hazardous chemical in excess of the reportable quantity of that chemical, as defined in 40 CFR 355.20, is liable for the response costs incurred by state or local hazardous chemical response personnel. The state agency, local agency, volunteer organization, or hazardous chemical response personnel, as identified in the state or local emergency operations plan, which undertakes a response action may recover those response costs in an action brought before a court of competent jurisdiction. If more than one jurisdiction, organization, or agency incurs response costs for the same hazardous chemical release or incident, those hazardous chemical response jurisdictions, agencies, organizations, or personnel may file a joint action and may designate one entity to represent the others in the action.
 - b. ~~Amount.~~ In the action to recover reasonable and necessary response costs, state agencies, local agencies, or volunteer organizations may include operational, administrative, personnel, and legal costs incurred from its initial response action up to the time that it recovers its cost. Reasonable and necessary costs are those additional costs incurred that are a result of the responsible party's failure or inability to

implement or initiate the necessary actions to protect life, property, and the environment.

4. ~~Penalties and fines:~~
 - a. ~~Civil fines:~~ A person who violates any of the reporting, planning, or notification requirements outlined in the provisions of the Emergency Planning and Community Right-to-Know Act of 1986 [title III of Public Law 99-499, 42 U.S.C. 11001 et seq.], or fails to pay a state hazardous chemicals fee is subject to a civil fine of not more than fifteen thousand dollars for each separate offense. For purposes of this subdivision, each day of continued violation constitutes a separate offense. All civil fines collected under this subdivision must be deposited in the state general fund. The state and its political subdivisions and employees of the state or a political subdivision acting within the scope of their employment are not subject to the civil fines established in this subdivision.
 - b. ~~Criminal penalty:~~ Any person who knowingly falsifies information or who intentionally obstructs or impairs, by force, violence, physical interference, or obstacle, a representative of state or local government or state or local hazardous chemicals response personnel attempting to perform duties and functions in state or local emergency operations plans or complying with Public Law 99-499, SARA title III, is guilty of a class B misdemeanor. The state and its political subdivisions and employees of the state or a political subdivision acting within the scope of their employment are not subject to the penalty established in this subdivision.
5. ~~Enforcement:~~
 - a- If the director of the division of ~~emergency management~~ homeland security determines that a violation of this chapter has occurred, the director shall make all evidence available to the attorney general for use in any remedial action the attorney general's office determines appropriate, including injunctive relief.
 - b- Nothing in this section may be construed to deny use of the remedies authorized under chapter 32-40.

SECTION 18. AMENDMENT. Section 37-17.1-11 of the North Dakota Century Code is amended and reenacted as follows:

37-17.1-11. Disaster or emergency mitigation.

1. In addition to disaster or emergency mitigation measures as included in the state and local disaster or emergency operational plans, the governor shall consider, on a continuing basis, steps that could be taken to mitigate or reduce the harmful consequences of disasters or emergencies. At the governor's direction, and pursuant to any other authority and capability they have, state agencies charged with responsibilities in connection with floodplain management, stream encroachment and flow regulation, weather modification, fire prevention and control, air quality, public works, land use and land use planning, and construction standards, shall make studies of disaster or emergency mitigation-related matters. The governor, from time to time, shall make recommendations to the legislative assembly, local governments, and other appropriate public and private entities as may facilitate measures for mitigation or reduction of the harmful consequences of disasters or emergencies.
2. The North Dakota state engineer and the water commission, in conjunction with the division of ~~emergency management~~homeland security, shall keep land uses and construction of structures and other facilities under continuing study and identify areas which are particularly susceptible to severe land shifting, subsidence, flood, or other catastrophic occurrence. The studies under this subsection must concentrate on means of reducing or avoiding the dangers caused by this occurrence or the consequences thereof.

3. If the division of ~~emergency management~~ homeland security determines, on the basis of the studies or other competent evidence, that an area is susceptible to a disaster of catastrophic proportions without adequate warning; existing building standards and land use controls in that area are inadequate and could add substantially to the magnitude of the disaster or emergency; and changes in zoning regulations, other land use regulations, or building requirements are needed in order to further the purposes of this section, it shall specify the essential changes to the governor. If the governor, upon review of the determination, finds after public hearing, that the changes are essential, the governor shall so recommend to the agencies or local governments with jurisdiction over that area and subject matter. If no action or insufficient action pursuant to the governor's recommendations is taken within the time specified by the governor, the governor shall so inform the legislative assembly and request legislative action appropriate to mitigate the impact of the disaster or emergency.
4. The governor, at the same time that the governor makes recommendations pursuant to subsection 3, may suspend the standard or control which the governor finds to be inadequate to protect the public safety and by regulation place a new standard or control in effect. The new standard or control remains in effect until rejected by concurrent resolution of both houses of the legislative assembly or amended by the governor. During the time it is in effect, the standard or control contained in the governor's regulation must be administered and given full effect by all relevant regulatory agencies of the state and local governments to which it applies. The governor's action is subject to judicial review in accordance with chapter 28-32 but is not subject to temporary stay pending litigation.

SECTION 19. AMENDMENT. Section 37-17.1-13 of the North Dakota Century Code is amended and reenacted as follows:

37-17.1-13. Communications. The division of ~~emergency management~~ homeland security shall ascertain what means exist for rapid and efficient communications in times of a disaster or emergency. The division shall consider the desirability of supplementing these communications resources or of integrating them into a comprehensive state or state and federal telecommunications or other communications system or network, including the military installations. In studying the character and feasibility of any system or its several parts, the division shall evaluate the possibility of multipurpose use thereof for general state and local governmental purposes. The division shall make recommendations to the governor as appropriate.

SECTION 20. AMENDMENT. Section 37-17.1-14 of the North Dakota Century Code is amended and reenacted as follows:

37-17.1-14. Mutual aid.

1. Counties and cities must be encouraged and assisted by the division of ~~emergency management~~ homeland security to conclude suitable arrangements for furnishing mutual aid in emergency management. The arrangements must include provision of aid by persons and units in public employ.
2. In review of local disaster or emergency plans, the division of ~~emergency management~~ homeland security shall consider whether they contain adequate provisions for the rendering and receipt of mutual aid.

SECTION 21. AMENDMENT. Section 37-17.1-14.1 of the North Dakota Century Code is amended and reenacted as follows:

37-17.1-14.1. Mutual aid - Cooperation.

1. The division of ~~emergency management~~ homeland security shall encourage and assist political subdivisions to enter mutual aid agreements with other public and private agencies within the state for reciprocal aid and assistance in responding to and recovering from actual and potential disasters or emergencies.
2. In reviewing emergency operations plans and programs of political subdivisions, the division of ~~emergency management~~ homeland security

shall consider whether ~~they~~ the plans and programs contain adequate provisions for mutual aid.

3. Local emergency management organizations may assist in negotiation of mutual aid agreements between the governor and an adjoining state or province or a political subdivision of an adjoining state or province and shall carry out arrangements of any such agreements relating to the local political subdivision.

SECTION 22. AMENDMENT. Section 37-17.1-15 of the North Dakota Century Code is amended and reenacted as follows:

37-17.1-15. Weather modification. The division of ~~emergency management~~ homeland security shall keep continuously apprised of weather conditions which present danger of precipitation or other climatic activity severe enough to constitute a disaster. If the division determines that precipitation resulting from weather modification operations, either by itself or in conjunction with other precipitation or climatic conditions or activity, would create or contribute to the severity of a disaster, ~~it~~ the division shall direct the officer or agency empowered to issue permits for weather modification operations to suspend the issuance of the permits. ~~Thereupon, no~~ No permits may be issued until the division informs the officer or agency that the danger has passed.

SECTION 23. AMENDMENT. Section 37-17.1-22 of the North Dakota Century Code is amended and reenacted as follows:

37-17.1-22. Disaster or emergency response and recovery costs. Whenever the governor declares a state of disaster or emergency in accordance with section 37-17.1-05, or when the governor enters into an agreement with the federal government following a disaster or emergency declared by the president of the United States, the director of the division of ~~emergency management~~ homeland security shall determine and record the costs of the state response and recovery operations in accordance with an agreement with the federal government or in accordance with procedures established by the governor in the case of a state-declared disaster or emergency. Immediately following the response or recovery operations, or prior thereto if ~~deemed~~ determined necessary by the governor, the governor shall make application to the state emergency commission for a grant of funds in an amount equal to the response and recovery costs of the state. Notwithstanding other provisions of chapter 54-16, it must be conclusively presumed upon receipt by the emergency commission of such application from the governor that a disaster or emergency exists, and ~~such~~ the commission ~~shall~~ shall immediately grant and direct the transfer to the department of the governor's designated representative of an amount equal to that certified in such application by the governor.

SECTION 24. AMENDMENT. Section 37-17.1-23 of the North Dakota Century Code is amended and reenacted as follows:

37-17.1-23. Disaster or emergency recovery funding - Loan authorization.

1. When approved by the emergency commission, the division of ~~emergency management~~ homeland security is authorized to borrow from the Bank of North Dakota, to match federal funds under the Robert T. Stafford Disaster Emergency Assistance Act [Public Law 93-288, as amended]. In addition to the principal repayment, the Bank of North Dakota shall receive interest on the loan at a rate equal to other state agency borrowings. On behalf of the state, the division of ~~emergency management~~ homeland security shall administer the disaster or emergency recovery program according to state procedures based on federal laws or regulations. After a county or group of counties have been declared a major disaster or emergency area by the president, the division shall submit a request to the emergency commission for:
 - 4- a. Approval to make an application for a loan from the Bank of North Dakota;
 - 2- b. Approval for additional personnel required to perform the anticipated recovery activities; and
 - 3- c. Authority to spend additional state and federal funds for the recovery program.

2. If the request is acceptable, the emergency commission shall approve the request and issue a notice of its action to the division, Bank of North Dakota, and the office of management and budget. The division shall keep the emergency commission apprised of the progress of the recovery operation and submit a final report upon completion of the project. The emergency commission is responsible to repay any loan, including accrued interest, from the Bank of North Dakota which is provided under this section. If at the end of the biennium a balance exists on the loan, the emergency commission shall request the legislative assembly for a deficiency appropriation to repay the loan.

SECTION 25. AMENDMENT. Subsection 2 of section 39-01-01 of the North Dakota Century Code is amended and reenacted as follows:

2. Authorized emergency vehicles:
- a. Class A authorized emergency vehicles means:
 - (1) Vehicles of a governmentally owned fire department.
 - (2) Vehicles when operated by or under the control of a police officer having authority to enforce the provisions of this title or by a salaried employee of a municipal police department within the municipality or by a sheriff or deputy sheriff not including special deputy sheriffs, or by the director of the department of corrections and rehabilitation and the director's authorized agents who have successfully completed training in the operation of class A authorized emergency vehicles.
 - (3) Vehicles clearly identifiable as property of the department of corrections and rehabilitation when operated or under the control of the director of the department of corrections and rehabilitation.
 - (4) Ambulances.
 - (5) Vehicles operated by or under the control of the director, district deputy director, or a district deputy game warden of the game and fish department.
 - (6) Vehicles owned or leased by the United States and used for law enforcement purposes.
 - (7) Vehicles designated for the use of the adjutant general or assistant adjutant general in cases of emergency.
 - (8) Vehicles operated by or under the control of the director of the parks and recreation department.
 - (9) Vehicles operated by or under the control of a licensed railroad police officer and used for law enforcement purposes.
 - b. Class B authorized emergency vehicles means wreckers and such other emergency vehicles as are authorized by the local authorities.
 - c. Class C authorized emergency vehicles means:
 - (1) Vehicles authorized by the state and division of homeland security or local division of emergency management organizations.
 - (2) Vehicles used by volunteer firefighters while performing their assigned disaster and emergency responsibilities.
 - (3) Vehicles, other than ambulances, used by emergency medical services personnel.

SECTION 26. AMENDMENT. Section 39-10-03.2 of the North Dakota Century Code is amended and reenacted as follows:

39-10-03.2. Class C authorized emergency vehicles. All class B specifications apply to class C authorized emergency vehicles except that a rotating blue flashing light must be displayed in place of an amber light as provided in section 39-10-03.1. With respect to vehicles used by state and local disaster emergency services personnel, the division of ~~emergency management~~ homeland security is responsible for adopting rules for the use of flashing blue lights in accordance with chapter 28-32.

SECTION 27. AMENDMENT. Section 54-23.2-01 of the North Dakota Century Code is amended and reenacted as follows:

54-23.2-01. Definitions. ~~Wherever the word "director" is hereinafter used, it shall mean the director of the office of management and budget. The word "system" hereinafter used shall mean~~ As used in this chapter, unless the context otherwise requires:

1. "Director" means the director of the division of state radio.
2. "Division" means the division of state radio of the department of emergency services.
3. "System" means the state radio broadcasting system.

SECTION 28. AMENDMENT. Section 54-23.2-04.1 of the North Dakota Century Code is amended and reenacted as follows:

54-23.2-04.1. Lost or runaway children and missing persons. ~~The state radio department~~ division shall:

1. Establish and maintain a statewide file system for the purpose of effecting an immediate law enforcement response to reports of lost or runaway children and missing persons. ~~The state radio department shall implement~~
2. Implement a data exchange system to compile, to maintain, and to make available for dissemination to North Dakota and to out-of-state law enforcement agencies, descriptive information ~~which~~ that can assist appropriate agencies in recovering lost or runaway children and missing persons.
2. ~~3.~~ 3. Establish contacts and exchange information regarding lost or runaway children and missing persons with the national crime information center.
3. ~~4.~~ 4. Notify all enforcement agencies that reports of lost or runaway children and missing persons ~~shall~~ must be entered as soon as the minimum level of data specified by the ~~state radio department~~ division is available to the reporting agency and that no waiting period for entry of such data exists. If the enforcement agency is unable to enter the data, the ~~state radio department shall~~ division immediately upon notification shall enter the information into the national crime information center file.
4. ~~5.~~ 5. Compile and retain information regarding lost or runaway children or missing persons in a separate file, in a manner that allows the information to be used by law enforcement and other agencies ~~deemed~~ considered appropriate by the ~~state radio department~~ division, for investigative purposes. The enforcement agency is responsible for maintaining the disposition of the case and ~~shall~~ periodically shall review the case with the reporting party and the ~~state radio department~~ division to ensure all available information is included and to determine the current status of the case.
5. ~~6.~~ 6. Provide prompt confirmation of the receipt and entry of the lost or runaway children and missing persons report into the file system to the enforcement agency providing the report or to the parent, guardian, or identified family member as provided in subsection ~~6~~ 7.
6. ~~7.~~ 7. Allow any parent, guardian, or identified family member to submit a missing persons report to the ~~state radio department~~ division which will be included in the ~~state radio department~~ division file system and transmitted to the national crime information center, if they are unable to receive services from the local law enforcement agency.

7. 8. Compile and maintain a historical data repository relating to missing persons for all of the following purposes:
- a. To develop and improve techniques utilized by law enforcement agencies when responding to reports of missing persons.
 - b. To provide a factual and statistical base for research that which would address the problem of lost or runaway children and missing persons.

SECTION 29. AMENDMENT. Section 54-23.2-09 of the North Dakota Century Code is amended and reenacted as follows:

54-23.2-09. Mobile data terminal and 911 service fees. ~~State radio communications~~

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

~~State radio communications~~

2. The division may provide 911 services to a political subdivision with a population of fewer than twenty thousand and shall charge at least twenty cents per telephone access line and wireless access line for 911 services provided to political subdivisions. The fee for 911 wireless services must be charged to and paid by the political subdivision receiving services from ~~state radio communications~~ the division under this section from and after the date of the agreement entered into by the political subdivision or its designee under section 57-40.6-05, whether the date of that agreement is before or after April 4, 2003. Each county currently receiving 911 services from ~~state radio communications~~ the division shall abide by the standards established by law.

SECTION 30. AMENDMENT. Section 57-40.6-11 of the North Dakota Century Code is amended and reenacted as follows:

57-40.6-11. Annual report to legislative council. ~~State radio~~ The division of state radio, in cooperation with entities affected by this section and section 57-40.6-10, shall facilitate the review of emergency 911 telephone system standards and guidelines and shall report annually to the legislative council on the operation of and any recommended changes in the standards and guidelines.

SECTION 31. AMENDMENT. Section 57-40.6-12 of the North Dakota Century Code is amended and reenacted as follows:

57-40.6-12. Reports of coordination of public safety answering points coverage. The governing body of a city or county, which adopted a fee on telephone exchange access service and wireless service under this chapter, shall make an annual report of the income, expenditures, and status of its emergency services communication system. The annual report must be submitted to the ~~state radio~~ division of state radio and to the public safety answering points coordinating committee. The committee is composed of three members, one appointed by the North Dakota 911 association, one appointed by the North Dakota association of counties, and one appointed by the ~~office of management and budget~~ adjutant general to represent the ~~state radio~~ division of state radio. The public safety answering points coordinating committee shall file its report with the legislative council by November first of each even-numbered year.

SECTION 32. AMENDMENT. Section 61-16.2-03 of the North Dakota Century Code is amended and reenacted as follows:

61-16.2-03. Duties of state engineer. The state engineer shall:

1. Collect and distribute information relating to flooding and floodplain management.
2. Coordinate local, state, and federal floodplain management activities to the greatest extent possible, and encourage appropriate federal agencies to make their flood control planning data available to communities and

districts for planning purposes, in order to allow adequate local participation in the planning process and in the selection of desirable alternatives.

3. Assist communities and districts in their floodplain management activities within the limits of available appropriations and personnel in cooperation with the division of ~~emergency management~~ homeland security.
4. Do all other things, within lawful authority, which are necessary or desirable to manage the floodplains for uses compatible with the preservation of the capacity of the floodplain to carry and discharge the base flood. In cooperation with communities and districts, the state engineer shall conduct, whenever possible, periodic inspections to determine the effectiveness of local floodplain management programs, including an evaluation of the enforcement of and compliance with local floodplain management ordinances.

SECTION 33. AMENDMENT. Section 65-06-01 of the North Dakota Century Code is amended and reenacted as follows:

65-06-01. Volunteer firefighter, emergency or disaster volunteer, community emergency response team member, in training defined. The term "volunteer firefighter" means any active member of an organized volunteer fire department of this state and any other individual performing services as a volunteer firefighter for a municipality at the request of the chief or other individual in command of the fire department of that municipality or of any other officer of that municipality having authority to demand service as a firefighter. Firefighters who are paid a regular wage or stipend by the municipality for serving as a firefighter, or whose entire time is devoted to service as a firefighter for the municipality, for the purpose of this chapter, are not volunteer firefighters.

The term "emergency or disaster volunteer" means any individual serving without remuneration who is actively engaged in training to qualify as a disaster emergency worker or is responding to a hazard, emergency disaster, or enemy attack on this country, and who is registered with the disaster emergency organization of a municipality, which has been officially recognized by the director of the state division of ~~emergency management~~ homeland security.

The term "in training" means only those periods of time, during which an emergency or disaster volunteer is receiving instruction, or is engaged in exercises or operations, in preparation for qualification as a disaster emergency worker in the event of a hazard, emergency, disaster, or enemy attack on this country.

The term "community emergency response team member" means an individual registered as a community emergency response team member with the appropriate authority. For purposes of this chapter, a community emergency response team member is acting as a community emergency response team member only when the individual is receiving approved community emergency response team training or is acting as a member of a community emergency response team in an emergency or disaster.

Upon request of the organization, the disaster emergency organization of a municipality shall provide the organization with its roster of registered community emergency response team members.

The term "municipality" when used in reference to emergency or disaster volunteer means the state, cities, counties, municipalities, districts, or any other geographical entity of this state. This definition is not in any way intended to alter any interpretation or ruling in regard to the use of the term "municipality" when used in reference to volunteer firefighters."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

House Bill No. 1016 - Department of Emergency Services - Conference Committee Action

	EXECUTIVE BUDGET	HOUSE VERSION	CONFERENCE COMMITTEE CHANGES	CONFERENCE COMMITTEE VERSION	SENATE VERSION	COMPARISON TO SENATE
Salaries and wages	\$6,821,939	\$6,798,138	(\$219,983)	\$6,578,155	\$6,578,155	
Operating expenses	3,325,844	3,325,844		3,325,844	3,325,844	

Capital assets	4,957,923	4,957,923		4,957,923	4,957,923	
Grants	46,962,054	46,962,054		46,962,054	46,962,054	
Salaries and wages pool			213,493	213,493		\$213,493
Loan proceeds			900,000	900,000		900,000
Total all funds	\$62,067,760	\$62,043,959	\$893,510	\$62,937,469	\$61,823,976	\$1,113,493
Less estimated income	<u>56,961,521</u>	<u>56,950,231</u>	<u>897,061</u>	<u>57,847,292</u>	<u>56,736,776</u>	<u>1,110,516</u>
General fund	\$5,106,239	\$5,093,728	(\$3,551)	\$5,090,177	\$5,087,200	\$2,977
FTE	54.00	54.00	0.00	54.00	54.00	0.00

Dept. 512 - Department of Emergency Services - Detail of Conference Committee Changes

	REDUCES RECOMMENDED FUNDING FOR HEALTH INSURANCE	REDUCES FUNDING FOR SALARIES AND WAGES AND CREATES A SALARIES AND WAGES POOL ¹	AUTHORIZES THE BORROWING OF FUNDS ²	TOTAL CONFERENCE COMMITTEE CHANGES
Salaries and wages	(\$6,490)	(\$213,493)		(\$219,983)
Operating expenses				
Capital assets				
Grants				
Salaries and wages pool		213,493		213,493
Loan proceeds			<u>\$900,000</u>	<u>900,000</u>
Total all funds	(\$6,490)	\$0	\$900,000	\$893,510
Less estimated income	<u>(2,939)</u>		<u>900,000</u>	<u>897,061</u>
General fund	(\$3,551)	\$0	\$0	(\$3,551)
FTE	0.00	0.00	0.00	0.00

¹ The conference committee agreed to create a salaries and wages pool of \$213,493, of which \$2,977 is from the general fund, with funding from the salaries and wages line item. The funding is available to the department for providing salary increases to positions affected by the department's reorganization subject to approval by the Budget Section. The Senate had reduced funding for salaries and wages by \$213,493, of which \$2,977 is from the general fund, to remove funding relating to continuing salary increases provided to Division of Emergency Management employees during the 2003-05 biennium.

² The conference committee agreed with the House amendment to authorized the department to borrow up to \$900,000 from the Bank of North Dakota for expenses associated with the migration of the State Radio Communications system from analog to digital. The loan, including accrued interest, is to be repaid with federal funds made available from the United States Department of Homeland Security. The Senate had removed this borrowing authority from the bill.

This amendment also:

- Revises Section 5 of the engrossed bill added by the House to broaden the scope of the audit to the entire department, including fees collected for 911 services and the utilization of such fees. These changes were also made by the Senate.
- Revises Section 8 of the engrossed bill added by the House to provide legislative intent that political subdivisions spend a portion of federal homeland security funding allocations on costs associated with the migration of the State Radio Communications system from analog to digital instead of requiring political subdivisions to spend a portion of federal homeland security funding allocations on the migration. The Senate had removed this section from the bill.
- Adds a section to the bill providing legislative intent that the Office of Management and Budget address all remaining costs associated with the State Radio Communications system migration project in the department's budget request for the 2007-09 biennium. This section was not included in either the House or the Senate version of the bill.
- Provides for the reorganization of the Division of Emergency Management to the Department of Emergency Services, including a division of state radio and a division of homeland security, and the establishment of an advisory committee to the department. The Senate had reorganized the agency into the Division of Emergency Management and the Division of Homeland Security and State Radio Communications.

Engrossed HB 1016 was placed on the Seventh order of business on the calendar.

REPORT OF CONFERENCE COMMITTEE

HB 1018, as engrossed: Your conference committee (Sens. Grindberg, Christmann, Krauter and Reps. Carlisle, Kempenich, Kroeber) recommends that the **SENATE RECEDE** from the Senate amendments on HJ pages 1561-1562, adopt amendments as follows, and place HB 1018 on the Seventh order:

That the Senate recede from its amendments as printed on pages 1561 and 1562 of the House Journal and pages 1278-1280 of the Senate Journal and that Engrossed House Bill No. 1018 be amended as follows:

Page 1, line 2, replace "section" with "sections" and after "20.1-02-16.1" insert "and 20.1-04-15"

Page 1, line 3, after "fund" insert "and establishing a youth pheasant hunting season; to provide statements of legislative intent; to provide an expiration date"

Page 1, line 23, replace "1,431,668" with "1,414,443"

Page 2, line 2, replace "1,812,072" with "2,562,072"

Page 2, line 3, replace "47,683" with "46,564"

Page 2, line 6, replace "191,480" with "190,854"

Page 2, after line 6, insert:
"Wildlife services

130,000"

Page 2, line 8, replace "5,829,291" with "6,690,321"

Page 2, line 15, replace "16,805,250" with "16,788,025"

Page 2, line 18, replace "5,414,122" with "6,164,122"

Page 2, line 19, replace "10,229,098" with "10,227,979"

Page 2, line 23, replace "1,529,033" with "1,528,407"

Page 2, line 24, replace "550,000" with "680,000"

Page 2, line 26, replace "49,195,054" with "50,056,084"

Page 3, line 9, replace "\$550,000" with "\$680,000"

Page 3, after line 19, insert:

"SECTION 8. LEGISLATIVE INTENT - GRAHAMS ISLAND ROAD. It is the intent of the fifty-ninth legislative assembly that if the bids for the Grahams Island road construction project are less than the amount budgeted, then \$350,000 of the \$750,000 grant provided by the game and fish department for the road project must be returned to the game and fish fund."

Page 3, after line 29, insert:

"SECTION 10. AMENDMENT. Section 20.1-04-15 of the North Dakota Century Code is amended and reenacted as follows:

20.1-04-15. Pheasant season - Opening. The open or lawful season on pheasant and the open or lawful season on duck may not commence on the same weekend. The Except as otherwise provided in this section for the opening of pheasant season for youth, the open or lawful season on pheasant may not open earlier than one-half hour before sunrise and the season may not commence earlier than the first Saturday of October of any given year. The governor, in the governor's proclamation, may provide a pheasant hunting season for youth ages twelve through sixteen on the Saturday and Sunday preceding the opening of the regular pheasant season.

SECTION 11. EXPIRATION DATE. Section 10 of this Act is effective through July 31, 2007, and after that date is ineffective."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

House Bill No. 1018 - Game and Fish Department - Conference Committee Action

	EXECUTIVE BUDGET	HOUSE VERSION	CONFERENCE COMMITTEE CHANGES	CONFERENCE COMMITTEE VERSION	SENATE VERSION	COMPARISON TO SENATE
Salaries and wages	\$16,870,147	\$16,805,250	(\$17,225)	\$16,788,025	\$16,788,025	
Operating expenses	9,736,435	9,736,435		9,736,435	9,736,435	
Capital assets	2,961,116	2,961,116		2,961,116	2,961,116	

Grants	5,414,122	5,414,122	750,000	6,164,122	5,914,122	\$250,000
Land habitat and deer depredation	10,232,286	10,229,098	(1,119)	10,227,979	10,227,979	
Noxious weed control	350,000	350,000		350,000	350,000	
Grants, gifts, and donations	700,000	700,000		700,000	700,000	
Nongame wildlife conservation	120,000	120,000		120,000	120,000	
Lonetree Reservoir	1,531,060	1,529,033	(626)	1,528,407	1,528,407	
Wildlife services	550,000	550,000	130,000	680,000	680,000	
Ramp improvements and marina development		800,000		800,000	800,000	
Total all funds	\$48,465,166	\$49,195,054	\$861,030	\$50,056,084	\$49,806,084	\$250,000
Less estimated income	<u>48,465,166</u>	<u>49,195,054</u>	<u>861,030</u>	<u>50,056,084</u>	<u>49,806,084</u>	<u>250,000</u>
General fund	\$0	\$0	\$0	\$0	\$0	\$0
FTE	152.00	152.00	0.00	152.00	152.00	0.00

Dept. 720 - Game and Fish Department - Detail of Conference Committee Changes

	REDUCES RECOMMENDED FUNDING FOR HEALTH INSURANCE ¹	ADDS FUNDING FOR GRAHAMS ISLAND ROAD ²	INCREASES FUNDING FOR WILDLIFE SERVICES ³	TOTAL CONFERENCE COMMITTEE CHANGES
Salaries and wages	(\$17,225)			(\$17,225)
Operating expenses				
Capital assets				
Grants		\$750,000		750,000
Land habitat and deer depredation	(1,119)			(1,119)
Noxious weed control				
Grants, gifts, and donations				
Nongame wildlife conservation				
Lonetree Reservoir	(626)			(626)
Wildlife services			\$130,000	130,000
Ramp improvements and marina development				
Total all funds	(\$18,970)	\$750,000	\$130,000	\$861,030
Less estimated income	<u>(18,970)</u>	<u>750,000</u>	<u>130,000</u>	<u>861,030</u>
General fund	\$0	\$0	\$0	\$0
FTE	0.00	0.00	0.00	0.00

¹ This amendment reduces funding for state employee health insurance premiums from \$559.15 to \$553.95 per month, the same as the Senate version.

² This amendment adds \$750,000 of special funds spending authority to the grants line item for the Game and Fish Department to provide a grant toward the construction costs of the Grahams Island road. This amendment also adds a section of legislative intent that if the bids for the road construction project are less than the amount budgeted, then \$350,000 of the \$750,000 must be returned to the game and fish fund. The Senate version added \$500,000 to the grants line for the Grahams Island road, with legislative intent that \$100,000 of the \$500,000 be returned to the game and fish fund if bids were less than budgeted.

³ This amendment adds \$130,000 from the game and fish fund for wildlife services, for a total of \$680,000 available to provide to the Agriculture Commissioner to pay for services provided by the United States Department of Agriculture Wildlife Services Agency to alleviate wildlife depredation and damage in North Dakota, the same as the Senate version.

This amendment also amends North Dakota Century Code Section 20.1-04-15 relating to the opening of pheasant hunting season for youth and provides an expiration date, the same as the Senate version.

Engrossed HB 1018 was placed on the Seventh order of business on the calendar.

REPORT OF CONFERENCE COMMITTEE

HB 1195: Your conference committee (Sens. Mutch, Klein, Heitkamp and Reps. Keiser, Ruby, Boe) recommends that the **SENATE RECEDE** from the Senate amendments on HJ page 1282, adopt amendments as follows, and place HB 1195 on the Seventh order:

That the Senate recede from its amendments as printed on page 1282 of the House Journal and page 950 of the Senate Journal and that House Bill No. 1195 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 two new sections to chapter 52-04 and sections 52-04-08.1 and 52-04-08.2 of the North Dakota Century Code, relating to definitions, payment of unemployment insurance by staffing services, employer restructuring activities, and transfers of unemployment insurance tax account reserve history; to amend and reenact subsection 4 of section 52-04-06 and section 52-04-08 of the North Dakota Century Code, relating to voluntary contributions to lower unemployment insurance tax rates, transfer of unemployment insurance employer experience history to successor entities, and the transfer of workforce to other entities; to provide for a legislative council study; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 52-04 of the North Dakota Century Code is created and enacted as follows:

Definitions. As used in this chapter, unless the context otherwise requires:

1. "Agency" or "bureau" means job service North Dakota.
2. "Client company" means a person that contracts to receive services, within the course of that person's usual business, from a staffing service or that contracts to lease any or all of that person's employees from a staffing service.
3. "Knowingly" means having actual knowledge of or acting with deliberate ignorance or reckless disregard for the prohibition involved.
4. "Staffing service" means an employer in the business of providing the employer's employees to a client company to perform services within the course of that client company's usual business. The term includes a professional employer organization, a staff leasing company, an employee leasing organization, and a temporary staffing company. The term "staffing service" must be broadly construed to encompass an entity that offers services provided by a professional employer organization, a staff leasing company, an employee leasing organization, or a temporary staffing company, regardless of the term used.
5. "Temporary staffing" or "temporary staffing service" means an arrangement through which an employer hires its own employees and assigns the employees to a client company to support or supplement the client company's workforce in a special work situation, including an employee's temporary absence; a temporary skill shortage; a seasonal workload; or a special assignment or project with a targeted end date.

The term does not include an arrangement through which the majority of the client company's workforce has been assigned by a temporary staffing service for a period of more than twelve consecutive months.

6. "Unemployment insurance tax rate" means the rate calculated or assigned under sections 52-04-05 and 52-04-06.
7. "Violates or attempts to violate" includes intent to evade, misrepresentation, and willful nondisclosure.
8. "Workforce" means some or all of the employees of a transferring employer.

SECTION 2. A new section to chapter 52-04 of the North Dakota Century Code is created and enacted as follows:

Staffing services - Payment of unemployment insurance taxes.

1. If a staffing service exclusively provides temporary staffing services, the staffing service is considered to be the employee's employer and the staffing service shall pay unemployment insurance taxes at the staffing service's unemployment insurance tax rate. If a staffing service provides temporary and long-term employee staffing services, the staffing service is subject to the reporting and tax requirements associated with the type of employee provided to the client company.
2. For the purposes of long-term employee staffing services provided by a staffing service, the staffing service shall:
 - a. Report quarterly the wages of all employees furnished to each client company and pay taxes on those wages at the client company's unemployment insurance tax rate; except as otherwise provided under subsection 3.

- b. Maintain complete and separate records of the wages paid to employees furnished to each of the client companies. Claims for benefits must be separately identified by the staffing service for each client company.
 - c. Notify the agency of each client company's name and unemployment insurance account number and the date the staffing service began providing services to the client company. The staffing service shall provide the agency with the information required under this subdivision upon entering an agreement with a client company, but no later than fifteen days from the effective date of the written agreement.
 - d. Supply the agency with a copy of the agreement between the staffing service and the client company.
 - e. Notify the agency upon termination of any agreement with a client company, but no later than fifteen days from the effective date of the termination.
 - f. Share employer responsibilities with the client company, including retention of the authority to hire, terminate, discipline, and reassign employees. If the contractual agreement between the staffing service and a client company is terminated, the employees become the sole employees of the client company.
3. For the purposes of long-term employee staffing services provided by a staffing service, upon authorization of the agency, the staffing service may be considered to be the employee's employer and the staffing service shall pay unemployment insurance taxes at the staffing service's unemployment insurance tax rate. The agency may not make an authorization under this subsection unless one of the following requirements is met:
- a. In the case of a client company unemployment insurance tax rate that is higher than the staffing services tax rate:
 - (1) The staffing service:
 - (a) Calculates the difference between the staffing service's tax rate and the client company's tax rate;
 - (b) Applies the difference to the wages to be earned by the employees furnished to the client company in the following completed calendar quarter; and
 - (c) Notifies the agency that such application would, if the staffing service's tax rate were applied to those same wages, cause a reduction in the tax due on those wages which does not exceed five hundred dollars.
 - (2) If the reduction under paragraph 1 exceeds five hundred dollars, at the written request of the staffing service, the agency may make a written determination that it is appropriate to allow the staffing service to use the staffing service's unemployment insurance tax rate.
 - b. The staffing service includes in its contract with the client company a requirement that if the client company's unemployment insurance tax rate is higher than the staffing service's tax rate, the client will arrange to make payment to the agency, pursuant to subsection 4 of section 52-04-06, in the amount necessary to cause the client company's unemployment insurance tax rate should it be recomputed to be determined by the agency to be equivalent to the staffing service's unemployment insurance tax rate. Before the agency makes an authorization under this subdivision, the agency actually must receive payment of the amount required to cause the determination that the client company has complied with this subdivision.
 - c. The staffing service demonstrates to the agency that the staffing service has entered an agreement with a client company that has an

unemployment insurance tax rate that is, at the time of execution of the contract, equal to or lower than the staffing service's tax rate.

4. If a staffing service enters a contract with a client company that has an unemployment insurance tax rate that is lower than the staffing service's tax rate, the agency shall determine the following year's tax rate for the staffing service by calculating a blended reserve ratio using the proportion of that client company's total wages paid for up to the previous six years to the total wages paid for up to the previous six years for all of that staffing service's client companies whose furnished workers are considered the staffing service's employees for unemployment insurance tax purposes pursuant to subsection 3.
5. Both a staffing service and client company are considered employers for the purposes of this title. Both parties to a contract between a staffing service and a client company are jointly liable for delinquent unemployment insurance taxes, and the agency may seek to collect such delinquent taxes, and any penalties and interest due, from either party. This chapter does not modify or impair any other provisions of the contract between the staffing service and the client company not relating to the requirements of this subsection concerning liability for payment of taxes on the wages paid to workers furnished by the staffing service to the client company, and the means of determining the tax rate to be applied to those wages.
6. The agency shall determine whether a person is a staffing service. If the agency determines a person is a staffing service, the agency may further determine if the person is a temporary staffing service. The agency's determination must be issued in writing, and within fifteen days of the date of issuance of that determination, a person aggrieved by that determination may appeal that determination. The appeal must be heard in the same manner and with the same possible results as all other administrative appeals under this title. In making a determination under this subsection, the agency may consider:
 - a. The number of client companies with which the staffing service has contracts;
 - b. The length of time the staffing service has been in existence;
 - c. The extent to which the staffing service extends services to the general public;
 - d. The degree to which the client company and the staffing services are separate and unrelated business entities;
 - e. The repetition of officers and managers between the client company and staffing service;
 - f. The scope of services provided by the staffing service;
 - g. The relationship between the staffing service and the client company's workers;
 - h. The written agreement between the staffing service and the client company; and
 - i. Any other factor determined relevant by the agency.
7. The agency may require information from any staffing service, including a list of current client company accounts, staffing assignments, and wage information. A client company shall provide any information requested by the agency regarding any staffing service.

SECTION 3. AMENDMENT. Subsection 4 of section 52-04-06 of the North Dakota Century Code is amended and reenacted as follows:

4. a. After each year's rate schedule has been established, an employer may pay into the fund, or cause to be paid into the fund on the employer's behalf, an amount in excess of the contributions required to be paid under this section. That amount must be credited to the

employer's separate account. The employer's rate must be recomputed with the amount paid pursuant to this subsection included ~~in the calculation only, except as allowed by subdivision b,~~ if that amount was paid by April thirtieth of that year. Payments may not be refunded or used as credit in the payment of contributions.

- b. An employer that enters a contract with a staffing service, other than a temporary staffing service, may make the payments authorized by this subsection at any time during the rate year and the agency will determine if that payment is adequate to allow the staffing service to comply with subsection 3 of section 2 of this Act; however, the employer's tax rate will remain in effect for the remainder of the tax year. The agency will deposit any payment received pursuant to this subsection immediately and will credit it to the employer's separate account, but the agency will apply the payment to the calculation of the employer's tax rate for the following rate year. In order to take advantage of this subdivision and subsection 3 of section 2 of this Act, an employer may not be delinquent in its unemployment insurance tax payments on the date on which the payment authorized by this subdivision is made.

SECTION 4. AMENDMENT. Section 52-04-08 of the North Dakota Century Code is amended and reenacted as follows:

52-04-08. Succession to predecessor's experience record - Impact of substantial common ownership, management, or control.

1. An employing unit that in any manner acquires all or part of the organization, business, trade, workforce, or assets of another employer and continues essentially the same business activity of the whole or part transferred, ~~must~~ may upon request be transferred in accordance with ~~such regulations as the bureau may prescribe~~ law and any relevant rules adopted by the agency, the whole or appropriate part of the experience record, reserve balance, and benefit experience of the ~~preceding~~ predecessor employer, unless the agency finds that the employing unit acquired the business solely or primarily for the purpose of obtaining a lower unemployment insurance tax rate. ~~Provided that if~~ If the predecessor files a written protest against such transfer within fifteen days of being notified of the successor's application, the transfer will not be made.
2. When an employing unit in any manner acquires all or part of the organization, business, trade, workforce, or assets of another employer, ~~the bureau~~ the agency shall transfer all or the appropriate part of the experience record, reserve balance, whether positive or negative, and benefit experience of such predecessor to the successor if it finds that ~~(a) the predecessor was owned or controlled by or owned or controlled the successor directly or indirectly, by legally enforceable means or otherwise or (b) both the predecessor and successor were owned or controlled either directly or indirectly, by legally enforceable means or otherwise, by the same interests~~ there was, at the time of acquisition, substantially common ownership, management, or control of the predecessor and the successor.
3. When a part of an employer's experience record reserve account and benefit experience is ~~to be~~ transferred under this section, the portion of the experience record and reserve account transferred must be in the same ratio to the total experience record and reserve account as the average annual payroll of the transferred organization, trade, business, workforce, or assets is to the total average annual payroll of the predecessor.
4. An employing unit's experience record may not be transferred in an amount that results in the successor and predecessor portions totaling more than one hundred percent of the predecessor's history.

SECTION 5. Section 52-04-08.1 of the North Dakota Century Code is created and enacted as follows:

52-04-08.1. Implementation of federal anti-SUTA dumping legislation. The agency shall implement section 52-04-08.2 to ensure necessary compliance with section 303(k) of the Social Security Act [Pub. L. 108-195; 42 U.S.C. 503]. The agency

shall adopt rules and procedures necessary to ensure compliance with that section. The agency may issue necessary subpoenas, in accordance with sections 52-06-23 and 52-06-25, to carry out its responsibilities under this chapter.

SECTION 6. Section 52-04-08.2 of the North Dakota Century Code is created and enacted as follows:

52-04-08.2. Transfers of unemployment insurance experience - Recalculation of rates - Definitions - Civil and criminal penalties. Notwithstanding any other provision of law, the following applies regarding assignment of penalty tax rates and transfers and acquisitions of businesses:

1.
 - a. If an employer transfers all or a part of its trade or business to another employer and at the time of the transfer there is substantially common ownership, management, or control of the two employers, the unemployment experience attributable to the transferred trade or business is transferred to the employer to which the business is transferred. The rates of both employers must be recalculated and made effective on the first day of the quarter in which the transfer took effect. The transfer of any of the employer's workforce to another employer is considered a transfer of trade or business under this subsection if, as a result of the transfer, the transferring employer no longer performs the trade or business in which the transferred workforce was engaged, and the trade or business is performed by the employer to which the workforce was transferred.
 - b. If, following a transfer of experience under subdivision a, the agency determines that a substantial purpose of the transfer of trade or business was to obtain a reduced unemployment insurance tax rate, the experience ratings of the employers involved must be combined into a single account and a single unemployment insurance tax rate must be assigned to that account.
2. If a person, who at the time of acquisition is not an employer under this title, acquires the trade or business of an employer, the unemployment experience of the acquired business may not be transferred to that person if the agency finds that the person acquired the business solely or primarily for the purpose of obtaining a lower unemployment insurance tax rate. Instead, the person must be assigned the applicable new employer rate calculated under section 52-04-05. In determining whether the business was acquired solely or primarily for the purpose of obtaining a lower unemployment insurance tax rate, the agency shall use objective factors that may include the cost of acquiring the business, whether the person continued the business enterprise of the acquired business, how long the business enterprise was continued, and whether a substantial number of new employees were hired for performance of duties unrelated to the business activity conducted before acquisition.
3. If a person knowingly acts or attempts to transfer or acquire a trade or business solely or primarily for the purpose of obtaining a lower unemployment insurance tax rate or knowingly violates any other provision of this chapter related to determining the assignment of an unemployment insurance tax rate, or if a person knowingly advises another person in a way that results in a violation of those provisions, the person is subject to the civil penalties provided in this subsection.
 - a. If the person is an employer, the employer must be assigned, in lieu of that employer's experience rate, the highest rate assignable under this chapter for the rate year during which the violation or attempted violation occurred and the three rate years immediately following that rate year. However, if the employer's experience rate is already at the highest rate for any year of that four-year period or if the amount of increase in the person's experience rate imposed under this subdivision would be less than two percent for any year of the four-year period, the penalty unemployment insurance tax rate for the year must be determined by adding a rate increment of two percent of taxable wages to the calculated experience rate.
 - b. If the person is not an employer, the person is subject to a civil penalty of not more than twenty-five thousand dollars. Any civil penalty

collected must be deposited in the penalty and interest account established under section 52-04-22.

4. In addition to the civil penalty imposed under subsection 3, any person that knowingly violates this section or knowingly attempts to violate this section is guilty of a class C felony.

SECTION 7. LEGISLATIVE COUNCIL STUDY - PROFESSIONAL EMPLOYER ORGANIZATIONS. The legislative council shall consider studying, during the 2005-06 interim, the feasibility and desirability of requiring professional employer organizations operating in North Dakota to register with the state. The study must include consideration of how other states address the issue of registration of professional employer organizations. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixtieth legislative assembly."

Renumber accordingly

HB 1195 was placed on the Seventh order of business on the calendar.

REPORT OF CONFERENCE COMMITTEE

HB 1397, as engrossed: Your conference committee (Sens. Bowman, Kilzer, Tallackson and Reps. Brusegaard, Rennerfeldt, Gulleson) recommends that the **HOUSE ACCEDE** to the Senate amendments on HJ page 1422 and place HB 1397 on the Seventh order.

Engrossed HB 1397 was placed on the Seventh order of business on the calendar.

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

William R. Horton, Secretary