

JOURNAL OF THE SENATE

Sixty-first Legislative Assembly

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Bismarck, April 14, 2009

The Senate convened at 9:30 a.m., with President Dalrymple presiding.

The prayer was offered by Chaplain David L. Vaughn, North Dakota State Penitentiary, Bismarck, and Spirit of Life Catholic Church, Mandan.

The roll was called and all members were present except Senator Wanzek.

A quorum was declared by the President.

CORRECTION AND REVISION OF THE JOURNAL

MR. PRESIDENT: Your **Committee on Correction and Revision of the Journal (Sen. Andrist, Chairman)** has carefully examined the Journal of the Sixty-second Day and recommends that it be corrected as follows and when so corrected, recommends that it be approved:

Page 1262, line 40, replace "Schatz" with "Wall"

SEN. ANDRIST MOVED that the report be adopted, which motion prevailed.

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 1035, Engrossed HB 1151, Engrossed HB 1265, Engrossed HB 1295, Engrossed HB 1301, Engrossed HB 1308, HB 1330, and Engrossed HB 1338, which motion prevailed.

THE PRESIDENT APPOINTED as a Conference Committee on:

Engrossed HB 1035: Sens. Nodland, Klein, Potter
Engrossed HB 1151: Sens. Andrist, Nodland, Potter
Engrossed HB 1265: Sens. Flakoll, Freborg, Bakke
Engrossed HB 1295: Sens. Nodland, G. Lee, Potter
Engrossed HB 1301: Sens. Nodland, Andrist, Horne
Engrossed HB 1308: Sens. Wanzek, Klein, Behm
HB 1330: Sens. Klein, Wanzek, Horne
Engrossed HB 1338: Sens. J. Lee, Andrist, Anderson

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 HB 1039, HB 1041, Engrossed HB 1186, HB 1188, Engrossed HB 1207, Engrossed HB 1239, HB 1252, Reengrossed HB 1322, Engrossed HB 1347, HB 1360, and Engrossed HB 1400, which motion prevailed.

THE PRESIDENT APPOINTED as a Conference Committee on:

HB 1039: Sens. Lyson, Nething, Fiebiger
HB 1041: Sens. Olafson, Lyson, Nelson
Engrossed HB 1186: Sens. Olafson, Nething, Nelson
Engrossed HB 1207: Sens. Nething, Lyson, Fiebiger
Engrossed HB 1239: Sens. Hogue, Freborg, Schneider
HB 1252: Sens. Nething, Olafson, Nelson
Reengrossed HB 1322: Sens. Lyson, Erbele, Pomeroy
Engrossed HB 1347: Sens. Lyson, Nething, Schneider
HB 1360: Sens. G. Lee, Flakoll, Taylor
Engrossed HB 1400: Sens. Freborg, Flakoll, Taylor

CONSIDERATION OF MESSAGE FROM THE HOUSE

SEN. HOLMBERG MOVED that the Senate do not concur in the House amendments to Engrossed SB 2007 as printed on SJ pages 1224-1225 and that a conference committee be appointed to meet with a like committee from the House, which motion prevailed on a voice vote.

APPOINTMENT OF CONFERENCE COMMITTEE

THE PRESIDENT APPOINTED as a Conference Committee on Engrossed SB 2007: Sens. Kilzer, Bowman, Mathern.

CONSIDERATION OF MESSAGE FROM THE HOUSE

SEN. HOLMBERG MOVED that the Senate do not concur in the House amendments to Engrossed SB 2010 as printed on SJ pages 1225-1226 and that a conference committee be appointed to meet with a like committee from the House, which motion prevailed on a voice vote.

APPOINTMENT OF CONFERENCE COMMITTEE

THE PRESIDENT APPOINTED as a Conference Committee on Engrossed SB 2010: Sens. Kilzer, Holmberg, Seymour.

CONSIDERATION OF MESSAGE FROM THE HOUSE

SEN. HOLMBERG MOVED that the Senate do not concur in the House amendments to SB 2016 as printed on SJ pages 1226-1227 and that a conference committee be appointed to meet with a like committee from the House, which motion prevailed on a voice vote.

APPOINTMENT OF CONFERENCE COMMITTEE

THE PRESIDENT APPOINTED as a Conference Committee on SB 2016: Sens. Grindberg, Holmberg, Seymour.

CONSIDERATION OF MESSAGE FROM THE HOUSE

SEN. HOLMBERG MOVED that the Senate do not concur in the House amendments to Engrossed SB 2019 as printed on SJ page 1227 and that a conference committee be appointed to meet with a like committee from the House, which motion prevailed on a voice vote.

APPOINTMENT OF CONFERENCE COMMITTEE

THE PRESIDENT APPOINTED as a Conference Committee on Engrossed SB 2019: Sens. Grindberg, Christmann, Seymour.

CONSIDERATION OF MESSAGE FROM THE HOUSE

SEN. HOLMBERG MOVED that the Senate do not concur in the House amendments to Engrossed SB 2022 as printed on SJ page 1227 and that a conference committee be appointed to meet with a like committee from the House, which motion prevailed on a voice vote.

APPOINTMENT OF CONFERENCE COMMITTEE

THE PRESIDENT APPOINTED as a Conference Committee on Engrossed SB 2022: Sens. Bowman, Krebsbach, Lindaas.

CONSIDERATION OF MESSAGE FROM THE HOUSE

SEN. J. LEE MOVED that the Senate do not concur in the House amendments to Engrossed SB 2230 as printed on SJ pages 1169-1170 and that a conference committee be appointed to meet with a like committee from the House, which motion prevailed on a voice vote.

APPOINTMENT OF CONFERENCE COMMITTEE

THE PRESIDENT APPOINTED as a Conference Committee on Engrossed SB 2230: Sens. Dever, J. Lee, Heckaman.

CONSIDERATION OF MESSAGE FROM THE HOUSE

SEN. J. LEE MOVED that the Senate do not concur in the House amendments to Reengrossed SB 2266 as printed on SJ page 1208 and that a conference committee be appointed to meet with a like committee from the House, which motion prevailed on a voice vote.

APPOINTMENT OF CONFERENCE COMMITTEE

THE PRESIDENT APPOINTED as a Conference Committee on Reengrossed SB 2266: Sens. J. Lee, Erbele, Heckaman.

CONSIDERATION OF MESSAGE FROM THE HOUSE

SEN. J. LEE MOVED that the Senate do not concur in the House amendments to SB 2391 as printed on SJ page 1210 and that a conference committee be appointed to meet with a like committee from the House, which motion prevailed on a voice vote.

APPOINTMENT OF CONFERENCE COMMITTEE

THE PRESIDENT APPOINTED as a Conference Committee on SB 2391: Sens. Erbele, Dever, Pomeroy.

MOTION

SEN. CHRISTMANN MOVED that the Senate stand in recess until 10:00 a.m., which motion prevailed.

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

CONSIDERATION OF MESSAGE FROM THE HOUSE

SEN. KLEIN MOVED that the Senate do concur in the House amendments to Engrossed SB 2417 as printed on SJ page 874, which motion prevailed on a voice vote.

Engrossed SB 2417, as amended, was placed on the Eleventh order of business.

SECOND READING OF SENATE BILL

SB 2417: A BILL for an Act to provide for a legislative council study relating to the state facilitating the reduction of landfill waste and the potential for development of methane processing.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 42 YEAS, 2 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

YEAS: Anderson; Andrist; Bakke; Behm; Bowman; Cook; Dever; Dotzenrod; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Horne; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Marcellais; Mathern; Miller; Nelson; Nething; Nodland; Oehlke; Olafson; Potter; Robinson; Schneider; Seymour; Stenehjem; Taylor; Triplett; Wardner; Warner

NAYS: Christmann; Kilzer

ABSENT AND NOT VOTING: O'Connell; Pomeroy; Wanzek

Reengrossed SB 2417 passed and the title was agreed to.

CONSIDERATION OF MESSAGE FROM THE HOUSE

SEN. KLEIN MOVED that the Senate do concur in the House amendments to Engrossed SB 2431 as printed on SJ page 690, which motion prevailed on a voice vote.

Engrossed SB 2431, as amended, was placed on the Eleventh order of business.

SECOND READING OF SENATE BILL

SB 2431: A BILL for an Act to amend and reenact subsection 3 of section 65-05-28 of the North Dakota Century Code, relating to independent medical examinations required by workforce safety and insurance.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 46 YEAS, 0 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Anderson; Andrist; Bakke; Behm; Bowman; Christmann; Cook; Dever; Dotzenrod; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Marcellais; Mathern; Miller; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Schneider; Seymour; Stenehjem; Taylor; Triplett; Wardner; Warner

ABSENT AND NOT VOTING: Wanzek

Reengrossed SB 2431 passed and the title was agreed to.

CONSIDERATION OF MESSAGE FROM THE HOUSE

SEN. NETHING MOVED that the Senate do concur in the House amendments to Engrossed SB 2112 as printed on SJ page 873, which motion prevailed on a voice vote.

Engrossed SB 2112, as amended, was placed on the Eleventh order of business.

SECOND READING OF SENATE BILL

SB 2112: A BILL for an Act to amend and reenact subsection 10 of section 39-06.1-05, section 39-06.1-09, paragraph 13 of subdivision b of subsection 3 of section 39-06.1-10, and section 39-10-26 of the North Dakota Century Code, relating to operation of a vehicle on approach of department of transportation vehicles; and to provide a penalty.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 46 YEAS, 0 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Anderson; Andrist; Bakke; Behm; Bowman; Christmann; Cook; Dever; Dotzenrod; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Marcellais; Mathern; Miller; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Schneider; Seymour; Stenehjerm; Taylor; Triplett; Wardner; Warner

ABSENT AND NOT VOTING: Wanzek

Reengrossed SB 2112 passed and the title was agreed to.

CONSIDERATION OF MESSAGE FROM THE HOUSE

SEN. COOK MOVED that the Senate do concur in the House amendments to SB 2222 as printed on SJ page 892, which motion prevailed on a voice vote.

SB 2222, as amended, was placed on the Eleventh order of business.

SECOND READING OF SENATE BILL

SB 2222: A BILL for an Act to amend and reenact section 57-15-28 of the North Dakota Century Code, relating to discontinuance of county emergency fund levies.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 46 YEAS, 0 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Anderson; Andrist; Bakke; Behm; Bowman; Christmann; Cook; Dever; Dotzenrod; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Marcellais; Mathern; Miller; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Schneider; Seymour; Stenehjerm; Taylor; Triplett; Wardner; Warner

ABSENT AND NOT VOTING: Wanzek

Engrossed SB 2222 passed and the title was agreed to.

CONSIDERATION OF MESSAGE FROM THE HOUSE

SEN. KLEIN MOVED that the Senate do concur in the House amendments to Engrossed SB 2432 as printed on SJ page 690, which motion prevailed on a voice vote.

Engrossed SB 2432, as amended, was placed on the Eleventh order of business.

SECOND READING OF SENATE BILL

SB 2432: A BILL for an Act to amend and reenact subsections 1 and 3 of section 65-05-28.2 of the North Dakota Century Code, relating to preferred providers for work-related injuries.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 46 YEAS, 0 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Anderson; Andrist; Bakke; Behm; Bowman; Christmann; Cook; Dever; Dotzenrod; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Marcellais; Mathern; Miller; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Schneider; Seymour; Stenehjerm; Taylor; Triplett; Wardner; Warner

ABSENT AND NOT VOTING: Wanzek

Reengrossed SB 2432 passed and the title was agreed to.

CONSIDERATION OF MESSAGE FROM THE HOUSE

SEN. FLAKOLL MOVED that the Senate do concur in the House amendments to Engrossed SB 2342 as printed on SJ pages 1208-1209, which motion prevailed on a voice vote.

Engrossed SB 2342, as amended, was placed on the Eleventh order of business.

SECOND READING OF SENATE BILL

SB 2342: A BILL for an Act providing an appropriation for defraying the expenses associated with the control of John's disease

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 46 YEAS, 0 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Anderson; Andrist; Bakke; Behm; Bowman; Christmann; Cook; Dever; Dotzenrod; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Marcellais; Mathern; Miller; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Schneider; Seymour; Stenehjem; Taylor; Triplett; Wardner; Warner

ABSENT AND NOT VOTING: Wanzek

Reengrossed SB 2342 passed and the title was agreed to.

CONSIDERATION OF MESSAGE FROM THE HOUSE

SEN. ANDRIST MOVED that the Senate do concur in the House amendments to SB 2352 as printed on SJ page 874, which motion prevailed on a voice vote.

SB 2352, as amended, was placed on the Eleventh order of business.

SECOND READING OF SENATE BILL

SB 2352: A BILL for an Act to amend and reenact section 54-21.2-03 of the North Dakota Century Code, relating to energy conservation standards for new buildings.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 46 YEAS, 0 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Anderson; Andrist; Bakke; Behm; Bowman; Christmann; Cook; Dever; Dotzenrod; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Marcellais; Mathern; Miller; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Schneider; Seymour; Stenehjem; Taylor; Triplett; Wardner; Warner

ABSENT AND NOT VOTING: Wanzek

Engrossed SB 2352 passed and the title was agreed to.

CONSIDERATION OF MESSAGE FROM THE HOUSE

SEN. KLEIN MOVED that the Senate do concur in the House amendments to Engrossed SB 2433 as printed on SJ pages 690-691, which motion prevailed on a voice vote.

Engrossed SB 2433, as amended, was placed on the Eleventh order of business.

SECOND READING OF SENATE BILL

SB 2433: A BILL for an Act to amend and reenact subsection 4 of section 65-05.1-04 of the North Dakota Century Code, relating to work searches by disabled workers.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 46 YEAS, 0 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Anderson; Andrist; Bakke; Behm; Bowman; Christmann; Cook; Dever; Dotzenrod; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Marcellais; Mathern; Miller; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Schneider; Seymour; Stenehjem; Taylor; Triplett; Wardner; Warner

ABSENT AND NOT VOTING: Wanzek

Reengrossed SB 2433 passed and the title was agreed to.

CONSIDERATION OF MESSAGE FROM THE HOUSE

SEN. COOK MOVED that the Senate do concur in the House amendments to Engrossed SB 2413 as printed on SJ page 874, which motion prevailed on a voice vote.

Engrossed SB 2413, as amended, was placed on the Eleventh order of business.

SECOND READING OF SENATE BILL

SB 2413: A BILL for an Act to create and enact a new section to chapter 57-51 of the North Dakota Century Code, relating to an oil and gas gross production tax exemption for certain gas to generate electricity; to amend and reenact section 38-08-06.4 and subsection 7 of section 49-02-25 of the North Dakota Century Code, relating to flaring of gas and renewable electricity and recycled energy; and to provide an effective date.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 46 YEAS, 0 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Anderson; Andrist; Bakke; Behm; Bowman; Christmann; Cook; Dever; Dotzenrod; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Marcellais; Mathern; Miller; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Schneider; Seymour; Stenehjem; Taylor; Triplett; Wardner; Warner

ABSENT AND NOT VOTING: Wanzek

Reengrossed SB 2413 passed and the title was agreed to.

CONSIDERATION OF MESSAGE FROM THE HOUSE

SEN. COOK MOVED that the Senate do concur in the House amendments to SB 2247 as printed on SJ page 932, which motion prevailed on a voice vote.

SB 2247, as amended, was placed on the Eleventh order of business.

SECOND READING OF SENATE BILL

SB 2247: A BILL for an Act to amend and reenact subsections 35 through 42 of section 57-02-08 of the North Dakota Century Code, relating to property tax exemptions for new construction; and to provide an effective date.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 45 YEAS, 1 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Anderson; Andrist; Bakke; Behm; Bowman; Christmann; Dever; Dotzenrod; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Marcellais; Mathern; Miller; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Schneider; Seymour; Stenehjem; Taylor; Triplett; Wardner; Warner

NAYS: Cook

ABSENT AND NOT VOTING: Wanzek

Engrossed SB 2247 passed and the title was agreed to.

CONSIDERATION OF MESSAGE FROM THE HOUSE

SEN. COOK MOVED that the Senate do concur in the House amendments to Engrossed SB 2239 as printed on SJ page 907, which motion prevailed on a voice vote.

Engrossed SB 2239, as amended, was placed on the Eleventh order of business.

SECOND READING OF SENATE BILL

SB 2239: A BILL for an Act to create and enact a new subsection to section 57-02-08 of the North Dakota Century Code, relating to property tax assessments for new construction; and to provide an effective date.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 46 YEAS, 0 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Anderson; Andrist; Bakke; Behm; Bowman; Christmann; Cook; Dever; Dotzenrod; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Marcellais; Mathern; Miller; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Schneider; Seymour; Stenehjem; Taylor; Triplett; Wardner; Warner

ABSENT AND NOT VOTING: Wanzek

Reengrossed SB 2239 passed and the title was agreed to.

MOTION

SEN. CHRISTMANN MOVED that a committee of two be appointed to escort the Honorable Representative Earl Pomeroy to the rostrum, which motion prevailed. The President appointed Sens. Dever and Robinson.

REMARKS OF THE HONORABLE REPRESENTATIVE EARL POMEROY

Good morning. Thank you for this opportunity to visit with you. Some of the experiences I had serving in the 1981 and 1983 legislative sessions are among the best experiences I have had in my career. It is good to be back. I also have a clear idea about the difficult work you have before you in the final days of this session, so I will get right to the point I want to discuss with you this morning.

In the past few weeks I have been crisscrossing North Dakota rushing from one disaster area to another. I have never seen a time when so many of our citizens have faced disaster threats--from Pembina to Mott, Minot to Wahpeton, and so many places in between.

Yesterday I toured flooded areas with Governor Hoeven and Major General David Sprynczynatyk. The view from the Black Hawk helicopter was incredible--water, water everywhere. Our ditches are streams, our streams are rivers, and our rivers have become lakes. In past weeks, unseasonably cold weather played an important role along the Red River, freezing water in fields at the height of the record crest in Fargo, preventing a bad situation from getting worse. Now, however, rain and 24-hour melting conditions, including temperatures in the 60s, have caused the lingering snowpack to let loose with a vengeance. Record flows are causing record floods, as the national news coverage this morning of my hometown, Valley City, indicates.

Valley City is in a very, very tough fight today, and Mayor Mary Lee Nielson just announced a voluntary evacuation of vulnerable adults and flood prone areas up to the level of the 500-year flood plain--involving a significant portion of the town. The Mayor told me these steps, along with the contingency dike lines being built behind some of the temporary levees, are not in any way an indication certain parts of the town are being abandoned in this flood fight. Rather, she expressed absolute determination to win this battle for each of the town's neighborhoods. The voluntary evacuation will greatly assist in clearing streets for the emergency dike repairs which inevitably will develop in the days of high water ahead.

Valley City will be assisted immeasurably by the Governor's commitment of significantly more National Guard soldiers and the presence of senior Corps of Engineers leadership along with levee experts brought in from around the country.

As with Fargo and our other disaster communities, we salute the dedicated leadership and federal resources brought to bear in this fight.

But we know the heart of the effort comes down to the people themselves as they step up, bear down, and work furiously--neighbor helping neighbor--in the struggle to save their homes and communities.

That's the thing about North Dakota. When the chips are down, we all pull together. And this is not simply some closely held opinion by me or by you. The televised coverage of the extraordinary fight that has been waged--literally across our entire state--as our people have responded to this very challenging spring has moved millions. In the Halls of Congress, colleague after colleague have expressed their concerns even as they admired the heroic efforts being waged to protect our communities.

President Obama expressed the impressions of our nation in a recent Saturday radio address which featured the disaster threat and response in our region. He said, "At moments like these we are reminded of the power of nature to disrupt lives and endanger communities. But we are also reminded of the power of individuals to make a difference. In the face of incredible challenge, the people of these communities have rallied in support of one another. And their service isn't just inspirational--it's integral to our response. It's also a reminder of what we can achieve when Americans come together to serve their communities. In facing sudden crises, or more stubborn challenges, the truth is we are all in this together as neighbors and fellow citizens." That is what brought so many to help in North Dakota and Minnesota and other areas affected by the flooding.

Some may see images of snow, rain, mud, sand, and water and say to themselves--"Why would anyone want to live there?!" But to each of us who have played our respective part in this fight and experienced the strength of our community, mobilized together, shoulder to shoulder, helping one another, we think--"Why would anyone want to live anywhere else?"

We will never be able to adequately thank our young people who have turned out by the thousands to form the backbone of the flood fight. Millions of sandbags were filled and placed. As we've worked with them we know two things very clearly--we couldn't have done it without them; and, if we give them the tools they need, they will go on to make our communities and our state stronger and better. I guess maybe there's a third thing we've learned for the older ones of us--we learned that we weren't quite as young as we were the last flood fight!

We will also never be able to thank adequately the men and women of the North Dakota National Guard. Nearly 2,000 Guardsmen are on duty this morning battling this week's dangerous crests. In all, more than 2,400 Guardsmen and Airmen have participated, filling nearly four and a half million sandbags statewide, keeping close watch on dozens and dozens of miles of emergency dikes, and directing traffic so the dike building and reinforcing never grinds to a stop. At Sandbag Central in Fargo late one night, I told the soldier next to me in the line that we all felt mighty good having our soldiers back here in our sand instead of sands far away. He just smiled and said, "Roger that, Sir!"

Having lived this flood fight for several weeks now, I've seen more examples of citizen heroism than I can begin to recount, but the impressions will be with me always--scenes like last night in LaMoure where Governor Hoeven and I visited a swarming Sandbag Central as waters crept toward the edges of that small town. The Mayor told us they put out the word on the radio at 5:30 and by 6:00 production was going full bore. Volunteers told me they dropped their plans for the evening and came forward to help. Making this even more incredible was the fact they were now into their third week of this hard work, offered freely for the good of the community.

In our largest fight this spring--where Fargo fought the Red River--it is estimated 80,000-100,000 people volunteered, an all-time record; and when this is all done, that is going to be the record of which I am most proud.

Just as notable as our citizen volunteers coming forward in emergencies are the citizen leaders who guide and enhance our communities through their virtually volunteer service. Our state has 357 mayors, 1,800 township board members, 223 county commissioners, and last but not least 141 state legislators. The people of this state are blessed to have you and all the dedicated men and women who share a love of our state and a determination to move it forward by playing leadership roles in our communities.

Dealing with the snows and floods of 2009 has demonstrated a lot about how different levels of government need to relate to one another to form the optimal response for the citizens we serve.

For example, we have seen where local issues are involved, local decisionmakers are the best positioned policymakers to make the call. Local officials know local matters best. For example, when federal officials challenged Fargo's flood planning, Fargo officials stuck to their guns and

subsequent events have proved them right. No one knows Fargo flood fighting better than Mayor Denny Walaker, and the same holds true for leaders all across the state.

On the other hand, while decisionmaking should be kept local as possible, when disaster strikes, it will require more than local resources to protect against the threat and then to restore normalcy when the threat has passed. We have seen that time and time again up here on the high plains. The Corps of Engineers and FEMA have been such vital partners to our efforts. This spring we were relieved when the Presidential Declaration of disaster was issued, and again last Friday when the White House announced the disaster recovery would include individual assistance.

Each day this week, some number of our citizens will abandon their efforts to save their homes from these relentless flood waters. Thank goodness they will know there will be some federal help to assist them in putting their property and their lives back in order.

And the toll of all this on our shared public infrastructure is truly staggering. In Ramsey County local officials told the Governor and me that there were 150 road closings due to washouts and flooding--36 in one township alone!

Most of the cost of the infrastructure pounding will fall upon the federal government. Senator Conrad, Senator Dorgan, and I will work closely with Governor Hoeven to make certain we receive the maximum amount of federal assistance possible. For example, we are hopeful and confident the federal cost-share will be 90% for qualifying public expenditures under FEMA. However, just as I have advised many homeowners that FEMA assistance and SBA loans can never make one entirely whole after a loss, the same is true for political subdivisions--our cities, counties, and townships.

After depleting budgets dealing with the record snows of winter, the local cost-share--even at 10%--will be hard or impossible for some to come up with. Also, some repairs may not qualify for FEMA payments, but our strapped subdivisions have no choice but to repair. I applaud you for voting to help with snow removal costs. This is a very good start.

In a disaster, government works best when each layer listens respectfully to the others, along the principle I described earlier, "Local folks know local issues best." That means at the Federal level and at the State level we must pay attention to our political subdivisions. They will inform us on how to fight the disaster, how to mitigate the risk of reoccurrence when the disaster is passed, and what to look out for in the future.

For example, the South side flood protection in Fargo is a locally developed proposal which would significantly reduce the prospects of this spring's threat from reoccurring in the future. We should fund it.

And listening to local leaders like County Commissioner Joe Belford in Ramsey County alerts us to the very difficult work that lies ahead in dealing with the continuing flood from the inexorably rising Devils Lake. The weather service now predicts a 100% certainty a record lake level will be reached when runoff is complete.

There's a vision I have when it comes to helping political subdivisions. It's the view of a sandbag line where each person shares the lift with the one next to them--a scene repeated innumerable times this spring and occurring right at this moment in our most threatened communities.

The Federal government must play the most significant financial role by far. Just as we have assisted other disaster areas, like fires and hurricanes, in the recent past, we will now require--and thanks to the Presidential disaster declarations, we will receive--tens of millions, perhaps hundreds of millions of dollars to help us recover.

In listening to bipartisan voices from this session, I am hopeful the state will also take extraordinary steps to help our cities, counties, and townships. In the sandbag line, they don't leave the smallest participant holding a bag bigger than they can handle. Working across lines of government, I know we can help our political subdivisions get through these daunting challenges they face.

Wrapping up any legislative session is a very difficult matter, as I remember well from my own time as a member of the legislature representing Valley City and Barnes County. Clearly the work before you this time--as unprecedented disasters continue to unfold from east to west and the needs grow daily--make your work these last two weeks as challenging as it could be.

Thank you for the chance to address you on this extraordinary morning in North Dakota. Thank you for your service, and I wish you Godspeed as you conclude the issues before you.

MOTION

SEN. O'CONNELL MOVED that the remarks of the Honorable Earl Pomeroy be printed in the Journal, which motion prevailed.

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.

CONSIDERATION OF AMENDMENTS

HB 1551, as amended: SEN. FISCHER (Appropriations Committee) MOVED that the amendments on SJ pages 1287-1288 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

SECOND READING OF HOUSE BILL

HB 1551: A BILL for an Act to amend and reenact section 53-06.2-11 of the North Dakota Century Code, relating to taxes on pari-mutuel wagering; to provide an effective date; and to provide an expiration date.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 43 YEAS, 3 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Anderson; Bakke; Behm; Bowman; Christmann; Dever; Dotzenrod; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Marcellais; Mathern; Miller; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Schneider; Seymour; Stenehjem; Taylor; Triplett; Wanzek; Warner

NAYS: Andrist; Cook; Hogue

ABSENT AND NOT VOTING: Wardner

HB 1551, as amended, passed and the title was agreed to.

SECOND READING OF SENATE CONCURRENT RESOLUTION

SCR 4036: A concurrent resolution urging the United States Department of Agriculture to implement livestock indemnity program regulations that account for the fair market value of newborn calves and their cost of production.

The question being on the final adoption of the resolution, which has been read, and has committee recommendation of DO PASS.

SCR 4036 was declared adopted, and the title was agreed to on a voice vote.

MOTION

SEN. CHRISTMANN MOVED that SCR 4036 be messaged to the House immediately, which motion prevailed.

SECOND READING OF HOUSE CONCURRENT RESOLUTION

HCR 3065: A concurrent resolution urging Congress to appoint an independent counsel to investigate the issue of American prisoners of war and those missing in action.

The question being on the final adoption of the resolution, which has been read, and has committee recommendation of DO PASS.

HCR 3065 was declared adopted, and the title was agreed to on a voice vote.

SECOND READING OF HOUSE BILL

HB 1577: A BILL for an Act to provide for a legislative council study of factors impacting the cost of health insurance and health insurance company reserves.

ROLL CALL

The question being on the final passage of the bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 41 YEAS, 5 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Anderson; Andrist; Bakke; Behm; Bowman; Christmann; Cook; Dotzenrod; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Horne; Kilzer; Klein; Krauter; Lee, G.; Lindaas; Lyson; Marcellais; Mathern; Miller; Nelson; Nething; Nodland; O'Connell; Olafson; Pomeroy; Potter; Robinson; Schneider; Seymour; Stenehjem; Taylor; Triplett; Wanzek; Warner

NAYS: Dever; Erbele; Krebsbach; Lee, J.; Oehlke

ABSENT AND NOT VOTING: Wardner

HB 1577 passed and the title was agreed to.

CONSIDERATION OF MESSAGE FROM THE HOUSE

SEN. COOK MOVED that the Senate do concur in the House amendments to Engrossed SB 2224 as printed on SJ page 874, which motion prevailed on a voice vote.

Engrossed SB 2224, as amended, was placed on the Eleventh order of business.

SECOND READING OF SENATE BILL

SB 2224: A BILL for an Act to create and enact a new section to chapter 57-43.2 of the North Dakota Century Code, relating to refund of special fuels taxes on fuels used for a refrigeration unit on a truck; and to provide an effective date.

ROLL CALL

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

YEAS: Anderson; Andrist; Bakke; Behm; Bowman; Christmann; Cook; Dever; Dotzenrod; Erbele; Fiebiger; Fischer; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Marcellais; Mathern; Miller; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Pomeroy; Robinson; Schneider; Seymour; Stenehjem; Taylor; Triplett; Wanzek; Wardner; Warner

NAYS: Flakoll; Potter

Reengrossed SB 2224 passed and the title was agreed to.

CONSIDERATION OF MESSAGE FROM THE HOUSE

SEN. COOK MOVED that the Senate do concur in the House amendments to SB 2090 as printed on SJ page 752, which motion prevailed on a voice vote.

SB 2090, as amended, was placed on the Eleventh order of business.

SECOND READING OF SENATE BILL

SB 2090: A BILL for an Act to amend and reenact subsection 12 of section 57-39.2-04 of the North Dakota Century Code, relating to sales and use tax imposed on purchases made in North Dakota by persons from an adjoining state; and to declare an emergency.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 46 YEAS, 1 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

YEAS: Anderson; Andrist; Bakke; Behm; Bowman; Christmann; Cook; Dever; Dotzenrod; Erbele; Fiebiger; Fischer; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Marcellais; Mathern; Miller; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Schneider; Seymour; Stenehjem; Taylor; Triplett; Wanzek; Wardner; Warner

NAYS: Flakoll

Engrossed SB 2090 passed, the title was agreed to, and the emergency clause was declared carried.

CONSIDERATION OF MESSAGE FROM THE HOUSE

SEN. COOK MOVED that the Senate do concur in the House amendments to SB 2089 as printed on SJ page 672, which motion prevailed on a voice vote.

SB 2089, as amended, was placed on the Eleventh order of business.

SECOND READING OF SENATE BILL

SB 2089: A BILL for an Act to create and enact a new subdivision to subsection 1 of section 57-38-01.3 of the North Dakota Century Code, relating to the add-back of dividends paid by captive real estate investment trusts for income tax purposes; to repeal sections 57-02-24 and 57-02-25 of the North Dakota Century Code, relating to elimination of obsolete provisions relating to listing and assessment of severed coal and mineral interests; and to provide an effective date.

ROLL CALL

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

YEAS: Anderson; Andrist; Bakke; Behm; Bowman; Christmann; Cook; Dever; Dotzenrod; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Marcellais; Mathern; Miller; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Schneider; Seymour; Stenehjem; Taylor; Triplett; Wanzek; Wardner; Warner

Engrossed SB 2089 passed and the title was agreed to.

CONSIDERATION OF MESSAGE FROM THE HOUSE

SEN. COOK MOVED that the Senate do concur in the House amendments to Engrossed SB 2040 as printed on SJ page 950, which motion prevailed on a voice vote.

Engrossed SB 2040, as amended, was placed on the Eleventh order of business.

SECOND READING OF SENATE BILL

SB 2040: A BILL for an Act to create and enact two new subsections to section 57-39.2-01 and a new section to chapter 57-39.2 of the North Dakota Century Code, relating to the definition of telecommunications company and telecommunications service and to a sales and use tax exemption for equipment used in telecommunications infrastructure development; and to provide an expiration date.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 38 YEAS, 9 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

YEAS: Anderson; Andrist; Bakke; Behm; Bowman; Christmann; Cook; Dotzenrod; Erbele; Freborg; Heckaman; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lindaas; Marcellais; Mathern; Miller; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Schneider; Seymour; Stenehjem; Taylor; Triplett; Wanzek; Wardner; Warner

NAYS: Dever; Fiebiger; Fischer; Flakoll; Grindberg; Hogue; Lee, G.; Lee, J.; Lyson

Reengrossed SB 2040 passed and the title was agreed to.

CONSIDERATION OF MESSAGE FROM THE HOUSE

SEN. COOK MOVED that the Senate do concur in the House amendments to Engrossed SB 2035 as printed on SJ page 806, which motion prevailed on a voice vote.

Engrossed SB 2035, as amended, was placed on the Eleventh order of business.

SECOND READING OF SENATE BILL

SB 2035: A BILL for an Act to amend and reenact subsection 41 of section 57-39.2-04, subsection 1 of section 57-39.2-04.2, subsection 1 of section 57-40.2-04.2, and section 57-61-01.4 of the North Dakota Century Code, relating to sales and use tax exemptions for beneficiated coal and equipment for certain power plants and a coal severance tax exemption for beneficiated coal or beneficiated coal used to produce steam that is used in certain plants; to provide for a study and a report to the legislative council; to provide an effective date; and to provide an expiration date.

ROLL CALL

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

YEAS: Anderson; Andrist; Bakke; Behm; Bowman; Christmann; Cook; Dever; Dotzenrod; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Marcellais; Mathern; Miller; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Schneider; Seymour; Stenehjem; Taylor; Triplett; Wanzek; Wardner; Warner

Reengrossed SB 2035 passed and the title was agreed to.

CONSIDERATION OF MESSAGE FROM THE HOUSE

SEN. NOTHING MOVED that the Senate do concur in the House amendments to Reengrossed SB 2042 as printed on SJ page 1167, which motion prevailed on a voice vote.

Reengrossed SB 2042, as amended, was placed on the Eleventh order of business.

SECOND READING OF SENATE BILL

SB 2042: A BILL for an Act to create and enact six new sections to chapter 14-09 and chapter 14-09.2 of the North Dakota Century Code, relating to parental rights and responsibilities and to parenting coordinators; to amend and reenact sections 14-05-22, 14-05-23, 14-09-05.1, 14-09-06.2, 14-09-06.3, 14-09-06.4, 14-09-06.6, and 14-09-07 of the North Dakota Century Code, relating to parental rights and responsibilities; to repeal sections 14-09-04, 14-09-05, 14-09-06, 14-09-06.1, and 14-09-28 of the North Dakota Century Code, relating to child custody and parental custody and visitation rights and duties; and to provide an expiration date.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 46 YEAS, 1 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

YEAS: Anderson; Andrist; Bakke; Behm; Bowman; Christmann; Cook; Dever; Dotzenrod; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Marcellais; Mathern; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Schneider; Seymour; Stenehjem; Taylor; Triplett; Wanzek; Wardner; Warner

NAYS: Miller

Reengrossed SB 2042 passed and the title was agreed to.

CONSIDERATION OF MESSAGE FROM THE HOUSE

SEN. DEVER MOVED that the Senate do concur in the House amendments to SCR 4008 as printed on SJ page 1001, which motion prevailed on a voice vote.

SCR 4008, as amended, was placed on the Eleventh order of business.

SECOND READING OF SENATE CONCURRENT RESOLUTION

SCR 4008: A concurrent resolution urging Congress and the President to adopt a veterans remembered flag.

The question being on the final adoption of the amended resolution, which has been read.

Engrossed SCR 4008 was declared adopted, and the title was agreed to on a voice vote.

CONSIDERATION OF MESSAGE FROM THE HOUSE

SEN. G. LEE MOVED that the Senate do concur in the House amendments to SCR 4016 as printed on SJ page 892, which motion prevailed on a voice vote.

SCR 4016, as amended, was placed on the Eleventh order of business.

SECOND READING OF SENATE CONCURRENT RESOLUTION

SCR 4016: A concurrent resolution urging the Congress of the United States and the President to enact federal legislation promoting travel to the United States by overseas visitors, thereby promoting the economies of communities across North Dakota and the United States.

The question being on the final adoption of the amended resolution, which has been read.

Engrossed SCR 4016 was declared adopted, and the title was agreed to on a voice vote.

CONSIDERATION OF MESSAGE FROM THE HOUSE

SEN. J. LEE MOVED that the Senate do concur in the House amendments to SB 2216 as printed on SJ pages 1170-1171, which motion prevailed on a voice vote.

SB 2216, as amended, was placed on the Eleventh order of business.

SECOND READING OF SENATE BILL

SB 2216: A BILL for an Act to amend and reenact section 12.1-34-07 of the North Dakota Century Code, relating to reimbursement for medical screening examinations that precede child forensic medical examinations and acute forensic medical examinations; to provide an appropriation; and to declare an emergency.

ROLL CALL

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

YEAS: Anderson; Andrist; Bakke; Behm; Bowman; Christmann; Cook; Dever; Dotzenrod; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Marcellais; Mathern; Miller; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Schneider; Seymour; Stenehjem; Taylor; Triplett; Wanzek; Wardner; Warner

Engrossed SB 2216 passed, the title was agreed to, and the emergency clause was declared carried.

CONSIDERATION OF MESSAGE FROM THE HOUSE

SEN. J. LEE MOVED that the Senate do concur in the House amendments to SB 2394 as printed on SJ pages 1031-1032, which motion prevailed on a voice vote.

SB 2394, as amended, was placed on the Eleventh order of business.

SECOND READING OF SENATE BILL

SB 2394: A BILL for an Act to create and enact a new section to chapter 14-10 of the North Dakota Century Code, relating to consent for prenatal care and other pregnancy care services provided to minors; and to provide for a legislative council study.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 46 YEAS, 1 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

YEAS: Anderson; Andrist; Bakke; Behm; Bowman; Cook; Dever; Dotzenrod; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Marcellais; Mathern; Miller; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Schneider; Seymour; Stenehjem; Taylor; Triplett; Wanzek; Wardner; Warner

NAYS: Christmann

Engrossed SB 2394 passed and the title was agreed to.

CONSIDERATION OF MESSAGE FROM THE HOUSE

SEN. J. LEE MOVED that the Senate do concur in the House amendments to SB 2099 as printed on SJ page 708, which motion prevailed on a voice vote.

SB 2099, as amended, was placed on the Eleventh order of business.

SECOND READING OF SENATE BILL

SB 2099: A BILL for an Act to create and enact subsection 5 of section 43-25-02 of the North Dakota Century Code, relating to the definition of remote education; and to amend and reenact subsection 2 of section 43-25-02 and sections 43-25-03, 43-25-04, 43-25-05, 43-25-05.1, 43-25-06, 43-25-07, 43-25-09, 43-25-10, 43-25-13, 43-25-14, and 43-25-18 of the North Dakota Century Code, relating to regulating the practice of massage.

ROLL CALL

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

YEAS: Anderson; Andrist; Bakke; Behm; Bowman; Christmann; Cook; Dever; Dotzenrod; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Marcellais; Mathern; Miller; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Schneider; Seymour; Stenehjem; Taylor; Triplett; Wanzek; Wardner; Warner

Engrossed SB 2099 passed and the title was agreed to.

MESSAGE TO THE HOUSE FROM THE SENATE (FRAN A. GRONBERG, SECRETARY)

MR. SPEAKER: The Senate has passed and your favorable consideration is requested on: SCR 4036.

MESSAGE TO THE HOUSE FROM THE SENATE (FRAN A. GRONBERG, SECRETARY)

MR. SPEAKER: The Senate has passed unchanged: HB 1577, HCR 3065.

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

MR. PRESIDENT: The House has amended, subsequently passed, and the emergency clause carried: SB 2001, SB 2003.

HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2001

Page 1, line 2, after the second semicolon insert "to create and enact a new section to chapter 54-03 and a new section to chapter 54-35 of the North Dakota Century Code, relating to reimbursement of broadband and certain wireless expenses of members of the legislative assembly and to a legislative budget committee;"

Page 1, line 3, after "54-03-20" insert ", section 54-44.1-04, subsection 7 of section 54-44.1-06, and section 54-44.1-07"

Page 1, line 4, after "compensation" insert ", budget requests, and drafts of appropriation bills" and after the second semicolon insert "to provide for a legislative council study;"

Page 1, line 19, replace "1,224,000" with "794,000" and replace "1,430,000" with "1,000,000"

Page 1, line 24, replace "6,528,252" with "6,098,252" and replace "16,444,554" with "16,014,554"

Page 2, line 5, replace "925,394" with "1,073,394" and replace "6,728,369" with "6,876,369"

Page 2, line 6, replace "758,046" with "892,246" and replace "3,393,934" with "3,528,134"

Page 2, line 9, replace "1,474,440" with "1,756,640" and replace "10,163,303" with "10,445,503"

Page 2, line 11, replace "1,474,440" with "1,756,640" and replace "10,093,303" with "10,375,503"

SECTION 11. A new section to chapter 54-35 of the North Dakota Century Code is created and enacted as follows:

Legislative budget committee - Creation - Duties. The legislative council, during each biennium, shall appoint a legislative budget committee to coordinate and direct activities involved in the development of budget recommendations to assist the legislative assembly as it develops policy and provides appropriations for the operations of state government. The legislative budget committee, with the assistance of the legislative budget analyst and auditor, shall:

1. Develop recommendations for the office of management and budget to include in its forms and guidelines for agencies to use in preparing budget requests;
2. Review, analyze, and evaluate budgets, budget requests, programs, and activities of state agencies, institutions, and departments;
3. Develop budget-related recommendations pertaining to the state budget or any portion of that budget, including revenues and appropriations to assist the legislative assembly as it develops policy and provides appropriations for the operations of state government; and
4. Prepare drafts of appropriations acts for the next biennium providing funding at the same base level approved by the most recently adjourned special or regular session of the legislative assembly and any draft amendments to these acts to implement recommendations of the committee.

SECTION 12. AMENDMENT. Section 54-44.1-04 of the North Dakota Century Code is amended and reenacted as follows:

(Effective after June 30, 2009) Budget estimates of budget units filed with the office of the budget and the legislative council - Deadline. The head of each budget unit, not later than July fifteenth of each year next preceding the session of the legislative assembly, shall submit to the office of the budget and the legislative council, estimates of financial requirements of the person's budget unit for the next two fiscal years, on the forms and in the manner prescribed by the office of the budget considering recommendations of the legislative council, with such explanatory data as is required by the office of the budget and such additional data as the head of the budget unit wishes to submit. The estimates so submitted must bear the approval of the board or commission of each budget unit for which a board or commission is constituted. The director of the budget, subject to approval by the legislative council, may extend the filing date for any budget unit if the director finds there is some circumstance that makes it advantageous to authorize the extension. If a budget unit has not submitted its estimate of financial requirements by the required date or within a period of extension set by the director of the budget, the director of the budget shall prepare the budget unit's estimate of financial requirements except the estimate may not exceed ninety percent of the budget unit's previous biennial appropriation. The director of the budget or a subordinate officer as the director shall designate shall examine the estimates and shall afford to the heads of budget units reasonable opportunity for explanation in regard thereto and, when requested, shall grant to the heads of budget units a hearing thereon which must be open to the public.

SECTION 13. AMENDMENT. Subsection 7 of section 54-44.1-06 of the North Dakota Century Code, as effective after June 30, 2009, is amended and reenacted as follows:

7. Drafts of a proposed amendment to a general appropriations act and special 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.~~

SECTION 14. AMENDMENT. Section 54-44.1-07 of the North Dakota Century Code is amended and reenacted as follows:

54-44.1-07. Presentation of budget data - How presented to the legislative assembly. The director of the budget or the director's designee shall present the

budget data information in section 54-44.1-06, except the drafts of ~~aets~~ amendments required by subsection 7 of that section, and make available sufficient copies thereof to the legislative assembly at the organizational session. The drafts of ~~aets~~ amendments required by subsection 7 of section 54-44.1-06 must be submitted to the legislative council within seven days after the day of adjournment of the organizational session. The budget data must be completed and made available to the legislative assembly in such form as may be prescribed by the legislative council. The legislative council shall set the time and place at which such budget data is to be presented."

Page 4, line 28, replace "7" with "8"

Page 4, line 29, replace "8" with "9"

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT - LC 98001.0212 FN 11

A copy of the statement of purpose of amendment is on file in the Legislative Council Office.

HOUSE AMENDMENTS TO REENGROSSED SENATE BILL NO. 2003

Page 1, line 3, after the second semicolon insert "to create and enact three new sections to chapter 15-62.2 of the North Dakota Century Code, relating to merit scholarships for students attending certain institutions of higher education; to amend and reenact subsections 1 and 3 of section 15-10-37 and sections 15-62.2-02 and 15.1-01-02 of the North Dakota Century Code, relating to student financial assistance grants, technology grants, and joint meetings of the state's education boards;"

Page 1, line 6, replace "provide" with "provided"

Page 1, line 19, replace "765,707" with "1,703,718" and replace "7,047,601" with "7,985,612"

Page 2, line 1, replace "1,248,728" with "3,386,525" and replace "7,236,225" with "9,374,022"

Page 2, after line 3, insert:

"Merit scholarships	0	3,000,000	3,000,000"
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Page 2, line 8, replace "436,030" with "1,436,030" and replace "2,176,344" with "3,176,344"

Page 2, line 13, replace "7,256,984" with "14,332,792" and replace "75,731,832" with "82,807,640"

Page 2, line 15, replace "6,551,756" with "13,627,564" and replace "71,682,874" with "78,758,682"

Page 2, line 21, replace "4,312,999" with "3,896,421" and replace "24,046,679" with "23,630,101"

Page 2, line 24, replace "8,063,136" with "7,646,558" and replace "28,040,297" with "27,623,719"

Page 2, line 26, replace "7,653,636" with "7,237,058" and replace "27,630,797" with "27,214,219"

Page 3, line 1, replace "1,238,516" with "1,042,287" and replace "7,749,864" with "7,553,635"

Page 3, line 4, replace "3,942,243" with "3,746,014" and replace "10,497,253" with "10,301,024"

Page 3, line 6, replace "3,942,243" with "3,746,014" and replace "10,497,253" with "10,301,024"

Page 3, line 12, replace "1,159,630" with "1,024,495" and replace "7,582,134" with "7,446,999"

Page 3, line 15, replace "12,526,632" with "12,391,497" and replace "19,035,611" with "18,900,476"

Page 3, line 17, replace "3,151,632" with "3,016,497" and replace "9,660,611" with "9,525,476"

Page 3, line 23, replace "18,364,555" with "15,923,492" and replace "125,376,385" with "122,935,322"

Page 3, line 24, replace "54,219,000" with "43,019,000" and replace "56,519,545" with "45,319,545"

Page 3, line 26, replace "79,762,229" with "66,121,166" and replace "189,074,604" with "175,433,541"

Page 3, line 28, replace "36,743,229" with "23,102,166" and replace "146,055,604" with "132,414,541"

Page 4, line 3, replace "19,628,094" with "14,665,029" and replace "109,221,724" with "104,258,659"

Page 4, line 6, replace "96,083,911" with "91,120,846" and replace "187,369,766" with "182,406,701"

Page 4, line 8, replace "37,983,911" with "33,020,846" and replace "129,269,766" with "124,306,701"

Page 4, line 14, replace "4,101,922" with "3,966,787" and replace "31,492,290" with "31,357,155"

Page 4, line 17, replace "17,972,065" with "17,836,930" and replace "46,115,765" with "45,980,630"

Page 4, line 19, replace "10,836,065" with "10,700,930" and replace "38,979,765" with "38,844,630"

Page 4, line 25, replace "3,116,332" with "3,772,639" and replace "19,972,442" with "20,628,749"

Page 4, line 28, replace "6,778,504" with "7,434,811" and replace "24,018,304" with "24,674,611"

Page 4, line 29, replace the second underscored zero with "350,000" and replace the third underscored zero with "350,000"

Page 4, line 30, replace "6,778,504" with "7,084,811" and replace "24,018,304" with "24,324,611"

Page 5, line 5, replace "1,399,686" with "1,264,551" and replace "11,514,751" with "11,379,616"

Page 5, line 8, replace "11,936,631" with "11,801,496" and replace "22,260,690" with "22,125,555"

Page 5, line 10, replace "8,268,131" with "8,132,996" and replace "18,592,190" with "18,457,055"

Page 5, line 16, replace "4,339,273" with "4,066,475" and replace "34,434,395" with "34,161,597"

Page 5, line 19, replace "30,934,384" with "30,661,586" and replace "61,626,376" with "61,353,578"

Page 5, line 21, replace "8,684,384" with "8,411,586" and replace "39,376,376" with "39,103,578"

Page 5, line 27, replace "1,785,999" with "1,650,864" and replace "15,136,136" with "15,001,001"

Page 5, line 30, replace "22,590,920" with "22,455,785" and replace "36,199,473" with "36,064,338"

Page 6, line 1, replace "4,090,920" with "3,955,785" and replace "17,699,473" with "17,564,338"

Page 6, line 7, replace "922,959" with "852,824" and replace "5,682,507" with "5,612,372"

Page 6, line 8, replace "2,800,000" with "3,080,000" and replace "2,909,725" with "3,189,725"

Page 6, line 10, replace "3,819,980" with "4,029,845" and replace "8,689,253" with "8,899,118"

Page 6, line 12, replace "1,819,980" with "2,029,845" and replace "6,689,253" with "6,899,118"

Page 6, line 18, replace "7,172,600" with "6,581,701" and replace "41,200,301" with "40,609,402"

Page 6, line 19, replace "7,172,600" with "6,581,701" and replace "41,200,301" with "40,609,402"

Page 6, line 21, replace "7,172,600" with "6,581,701" and replace "41,200,301" with "40,609,402"

Page 7, line 7, replace "145,140,779" with "132,111,587" and replace "585,208,335" with "572,179,143"

Page 7, line 8, replace "165,163,228" with "184,323,148" and replace "169,504,444" with "188,664,364"

Page 7, line 9, replace "310,304,007" with "316,434,735" and replace "754,712,779" with "760,843,507"

Page 7, after line 9, insert:

"SECTION 2. CONTINGENT FUNDING - LAKE REGION STATE COLLEGE.

The capital assets line item in subdivision 3 of section 1 of this Act includes \$2,609,920 from the general fund for a wind energy project at lake region state college which may be spent only to the extent that federal funds appropriated in section 3 of this Act are not available for these purposes.

SECTION 3. APPROPRIATION - FEDERAL FISCAL STIMULUS FUNDS - ADDITIONAL FUNDING APPROVAL. The funds provided in this section, or so much of the funds as may be necessary, are appropriated from federal funds made available to the state under the federal American Recovery and Reinvestment Act of 2009, not otherwise appropriated, to the North Dakota university system, for the period beginning with the effective date of this Act and ending June 30, 2011, as follows:

Lake region state college - Wind energy project	<u>\$2,609,920</u>
Total federal funds	\$2,609,920

The North Dakota university system may seek emergency commission and budget section approval under chapter 54-16 for authority to spend any additional federal funds received under the federal American Recovery and Reinvestment Act of 2009 in excess of the amounts appropriated under this section, for the period beginning with the effective date of this Act and ending June 30, 2011.

Any federal funds appropriated under this section are not a part of the agency's 2011-13 base budget. Any program expenditures made with these funds will not be replaced with state funds after the federal American Recovery and Reinvestment Act of 2009 funds are no longer available.

SECTION 4. APPROPRIATION - FEDERAL FISCAL STABILIZATION - OTHER GOVERNMENT SERVICES FUNDS - ADDITIONAL FUNDING APPROVAL. The funds provided in this section, or so much of the funds as may be necessary, are appropriated from federal fiscal stabilization - other government services funds made available to the governor under the federal American Recovery and Reinvestment Act of 2009, not otherwise appropriated, to the North Dakota university system, for the period beginning with the effective date of this Act and ending June 30, 2011, for the following capital construction project:

Minot state university Swain hall	\$5,000,000
University of North Dakota education building	<u>11,200,000</u>
Total federal funds	\$16,200,000

The North Dakota university system may seek emergency commission and budget section approval under chapter 54-16 for authority to spend any additional federal funds received under the federal American Recovery and Reinvestment Act of 2009 in excess of the amounts appropriated under this section, for the period beginning with the effective date of this Act and ending June 30, 2011.

Any federal funds appropriated under this section are not a part of the agency's 2011-13 base budget. Any program expenditures made with these funds will not be replaced with state funds after the federal American Recovery and Reinvestment Act of 2009 funds are no longer available."

Page 7, line 24, replace "49,928,248" with "39,008,248"

Page 7, line 25, replace "164,458,000" with "183,267,920"

Page 7, line 30, replace "234,611,248" with "242,501,168"

Page 8, line 1, replace "164,458,000" with "183,267,920"

Page 8, line 2, replace "70,153,248" with "59,233,248"

Page 8, after line 6, insert:

"SECTION 6. PERMANENT OIL TAX TRUST FUND - DICKINSON STATE UNIVERSITY. The estimated income line item in subdivision 8 of section 1 of this Act includes \$350,000 from the permanent oil tax trust fund for operations of Dickinson state university, for the biennium beginning July 1, 2009, and ending June 30, 2011."

Page 10, after line 13, insert:

"SECTION 19. CAPITAL ASSETS - MINOT STATE UNIVERSITY. The sum of \$2,500,000, or so much of the sum as may be necessary, included in the capital assets line item in subdivision 10 of section 1 of this Act, may be used to refurbish the existing coal boiler or in combination with or to match federal or other funds to design and install a geothermal energy system, for the biennium beginning July 1, 2009, and ending June 30, 2011.

SECTION 20. USE OF UNSPENT 2007-09 GENERAL FUND APPROPRIATIONS - TWO-YEAR COLLEGE MARKETING. The state board of higher education shall use \$200,000 of the North Dakota university system office unspent 2007-09 general fund appropriation authorized to continue under section 54-44.1-11 for marketing and awareness efforts of two-year colleges and technical careers, for the biennium beginning July 1, 2009, and ending June 30, 2011.

SECTION 21. USE OF UNSPENT 2007-09 GENERAL FUND APPROPRIATIONS - NORTHERN TIER NETWORK. The state board of higher education shall use \$1,100,000 of the North Dakota university system office unspent 2007-09 general fund appropriation authorized to continue under section 54-44.1-11 for maintenance and improvements of the northern tier network, for the biennium beginning July 1, 2009, and ending June 30, 2011."

Page 11, remove lines 3 through 12

Page 11, remove lines 18 through 26

Page 12, after line 2, insert:

"SECTION 25. TUITION RATE INCREASES - LIMIT - BUDGET SECTION APPROVAL. Notwithstanding any other provision of law, the state board of higher education shall limit any annual tuition increase for students attending institutions under its control for the 2009-10 and 2010-11 academic years to not more than four percent for each year unless the board receives prior budget section approval."

Page 12, after line 15, insert:

"SECTION 28. LEGISLATIVE COUNCIL STUDY - TUITION WAIVERS. During the 2009-10 interim, the legislative council shall consider studying the impact of tuition waivers on institutions under the control of the state board of higher education. The study if conducted must review the types of tuition waivers available, the number of tuition waivers granted, and the value of tuition waivers. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-second legislative assembly.

SECTION 29. LEGISLATIVE COUNCIL STUDY - EDUCATION GOVERNANCE. During the 2009-10 interim, the legislative council shall consider

studying the feasibility and desirability of creating a department to oversee early childhood, elementary, secondary, and postsecondary education. The study if conducted must include a review of education governance in other states, the efficiency of combining governing agencies, and the potential governing structure of a combined education department. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-second legislative assembly.

SECTION 30. LEGISLATIVE COUNCIL STUDY - HIGHER EDUCATION STUDENT TRUST FUND. During the 2009-10 interim, the legislative council shall consider studying the establishment of a higher education student trust fund, including available funding sources. The study if conducted must review best practices to include demonstrated in-migration patterns and long-term return on investment to the citizens of North Dakota by ensuring students are prepared to meet the changing needs of a global economy and to strengthen the economy of the state. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-second legislative assembly.

SECTION 31. AMENDMENT. Subsections 1 and 3 of section 15-10-37 of the North Dakota Century Code are amended and reenacted as follows:

1. The state board of higher education shall administer a science, technology, engineering, and mathematics occupations student loan program that encourages college students to pursue technology-based studies in these fields, to participate in technology internship programs, and to remain in the state after graduation. The board shall adopt rules to implement the program, including internship requirements, guidelines to determine which technology-related courses of study are eligible under the program, and standards for eligibility.
3. The state board of higher education shall distribute student loan grants directly to the Bank of North Dakota to repay outstanding student loan principal balances for eligible applicants. The maximum student loan grant amount for which an applicant may qualify is one thousand five hundred dollars per year and a total of five six thousand dollars, or a lesser amount established by rule adopted by the state board of higher education.

SECTION 32. AMENDMENT. Section 15-62.2-02 of the North Dakota Century Code is amended and reenacted as follows:

15-62.2-02. State board of higher education - Powers and duties. The state board of higher education shall:

1. Administer the North Dakota student financial assistance program and the North Dakota scholars program and adopt functional rules regarding the eligibility and selection of grant and scholarship recipients.
2. Determine the amount of individual grants, ~~but~~ which may not to exceed one thousand five hundred dollars per recipient per academic year, under the North Dakota student financial assistance program.
3. ~~Adopt for~~ For the North Dakota student financial assistance program, adopt criteria for substantial need, based upon the ability of the parents or guardian to contribute toward the applicant's educational expenses.
4. Establish the appropriate procedures for fiscal control, fund accounting, and necessary reports.
5. Apply for, receive, expend, and administer granted moneys from federal or private sources.

SECTION 33. A new section to chapter 15-62.2 of the North Dakota Century Code is created and enacted as follows:

Merit scholarship - Eligibility. A student is eligible for a merit scholarship if the student:

1. Was a resident of this state for the twelve months preceding the date the student met the graduation or high school diploma requirements set forth in subsection 2;

2. During or after the 2010-11 school year:
 - a. Graduated from a public or nonpublic high school in this state;
 - b. Graduated from a high school in another state under chapter 15.1-29;
or
 - c. Met the requirements for a high school diploma through home education, in accordance with section 15.1-23-17;
3. Completed the requirements for a scholarship as set forth in sections 15.1-21-02.4 or 15.1-21-02.5;
4. Submitted an application for a merit scholarship to the state board of higher education; and
5.
 - a. Is enrolled in an associate or a baccalaureate program at an accredited public or private institution of higher education in this state;
 - b. Is a "full-time" student, as defined by the institution; and
 - c. Maintains a minimum 2.75 cumulative grade point average.

SECTION 34. A new section to chapter 15-62.2 of the North Dakota Century Code is created and enacted as follows:

Merit scholarship - Amount payable.

1. Beginning with the 2010-11 school year, the board shall forward to the institution in which an eligible student is enrolled, on behalf of the student, an amount equal to seven hundred fifty dollars per semester.
2. A student is not entitled to receive more than six thousand dollars under section 33 of this Act.
3. Section 33 of this Act does not require a student to be enrolled in consecutive semesters. However, a merit scholarship is valid for only six academic years after the student's graduation from high school and may not be applied to graduate programs.

SECTION 35. A new section to chapter 15-62.2 of the North Dakota Century Code is created and enacted as follows:

Annual report. The state board of higher education shall provide to the legislative council an annual report regarding the number of scholarships provided under section 34 of this Act and demographic information pertaining to the recipients.

SECTION 36. AMENDMENT. Section 15.1-01-02 of the North Dakota Century Code is amended and reenacted as follows:

15.1-01-02. Joint meetings - State board of public school education - State board of higher education - Education standards and practices board - State board for career and technical education. The state board of public school education, the state board of higher education, the education standards and practices board, and the state board for career and technical education shall meet together at least once each year at the call of the superintendent of public instruction, the commissioner of higher education, the executive director of the education standards and practices board, and the director of career and technical education for the purposes of:

1. Coordinating elementary and secondary education programs, career and technical education programs, and higher education programs;
2. Establishing high standards and expectations of students at all levels of the education continuum;
3. Ensuring that all students have access to challenging curricula;

4. Ensuring that the individuals instructing students at all levels of the education continuum are highly qualified and capable;
5. Cooperating in the provision of professional growth and development opportunities for ~~elementary and secondary teachers and administrators.~~ individuals instructing students at all levels of the education continuum; and
- 3- 6. Ensuring cooperation in any other jointly beneficial project or program."

Page 12, line 17, replace "4, 5, 7, 14, and 15" with "3, 4, 8, 9, 11, 18, 22, and 32"

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT - LC 98046.0314 FN 3

A copy of the statement of purpose of amendment is on file in the Legislative Council Office.

MESSAGE TO THE HOUSE FROM THE SENATE (FRAN A. GRONBERG, SECRETARY)

MR. SPEAKER: The Senate has concurred in the House amendments and passed: SB 2035, SB 2040, SB 2042, SB 2089, SB 2090, SB 2112, SB 2216, SB 2222, SB 2224, SB 2239, SB 2247, SB 2342, SB 2352, SB 2413, SB 2417, SB 2431, SB 2432, SB 2433, SCR 4008, and SCR 4016.

MESSAGE TO THE HOUSE FROM THE SENATE (FRAN A. GRONBERG, SECRETARY)

MR. SPEAKER: The Senate has concurred in the House amendments and passed: SB 2099 and SB 2394.

MESSAGE TO THE HOUSE FROM THE SENATE (FRAN A. GRONBERG, SECRETARY)

MR. SPEAKER: The Senate does not concur in the House amendments to SB 2007, SB 2010, SB 2016, SB 2019, SB 2022, SB 2230, SB 2266, and SB 2391 and the President has appointed as a conference committee to act with a like committee from the House on:

SB 2007: Sens. Kilzer; Bowman; Mathern
SB 2010: Sens. Kilzer; Holmberg; Seymour
SB 2016: Sens. Grindberg; Holmberg; Seymour
SB 2019: Sens. Grindberg; Christmann; Seymour
SB 2022: Sens. Bowman; Krebsbach; Lindaas
SB 2230: Sens. Dever; J. Lee; Heckaman
SB 2266: Sens. J. Lee; Erbele; Heckaman
SB 2391: Sens. Erbele; Dever; Pomeroy

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

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

SB 2270: Reprs. Hatlestad; Pietsch; Zaiser
SB 2359: Reprs. Kretschmar; N. Johnson; Kilichowski

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

MR. PRESIDENT: The House has concurred in the Senate amendments and passed: HB 1082, HB 1162, HB 1166, HB 1342, HB 1391, HB 1392, HB 1401, HB 1448, HB 1458, HB 1461, HB 1514, HB 1534, HB 1573, HCR 3021, HCR 3030, HCR 3039, and HCR 3045.

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

MR. PRESIDENT: The House has concurred in the Senate amendments and passed: HB 1074, HB 1361, HB 1433, HB 1438, HB 1472, and HB 1561.

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

MR. PRESIDENT: The House does not concur in the Senate amendments to HB 1053, HB 1412, HB 1509, and HB 1554 and the Speaker has appointed as a conference committee to act with a like committee from the Senate on:

HB 1053: Reprs. Wrangham; Klemin; Mock
HB 1412: Reprs. Headland; Kretschmar; J. Kelsh
HB 1509: Reprs. DeKrey; Damschen; S. Kelsh
HB 1554: Reprs. Koppelman; Headland; J. Kelsh

MESSAGE TO THE HOUSE FROM THE SENATE (FRAN A. GRONBERG, SECRETARY)

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

HB 1035: Sens. Nodland; Klein; Potter
HB 1039: Sens. Lyson; Nething; Fiebiger
HB 1041: Sens. Olafson; Lyson; Nelson
HB 1151: Sens. Andrist; Nodland; Potter
HB 1186: Sens. Olafson; Nething; Nelson
HB 1207: Sens. Nething; Lyson; Fiebiger
HB 1239: Sens. Hogue; Freborg; Schneider
HB 1252: Sens. Nething; Olafson; Nelson
HB 1265: Sens. Flakoll; Freborg; Bakke
HB 1295: Sens. Nodland; G. Lee; Potter
HB 1301: Sens. Nodland; Andrist; Horne
HB 1308: Sens. Wanzek; Klein; Behm
HB 1322: Sens. Lyson; Erbele; Pomeroy
HB 1330: Sens. Klein; Wanzek; Horne
HB 1338: Sens. J. Lee; Andrist; Anderson
HB 1347: Sens. Lyson; Nething; Schneider
HB 1360: Sens. G. Lee; Flakoll; Taylor
HB 1400: Sens. Freborg; Flakoll; Taylor

MESSAGE TO THE HOUSE FROM THE SENATE (FRAN A. GRONBERG, SECRETARY)

MR. SPEAKER: Your signature is respectfully requested on: SB 2047, SB 2081, SB 2082, SB 2096, SB 2100, SB 2101, SB 2128, SB 2131, SB 2155, SB 2157, SB 2168, SB 2192, SB 2218, SB 2221, SB 2243, SB 2279, SB 2318, SB 2355, SB 2372, SB 2393, SB 2405.

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

MR. PRESIDENT: Your signature is respectfully requested on: HB 1195, HB 1249, HB 1263, HB 1278, HB 1284, HB 1307, HB 1317.

MESSAGE TO THE HOUSE FROM THE SENATE (FRAN A. GRONBERG, SECRETARY)

MR. SPEAKER: The President has signed: HB 1023, HB 1032, HB 1042, HB 1044, HB 1083, HB 1088, HB 1093, HB 1171, HB 1207, HCR 3008, HCR 3013, HCR 3025, HCR 3032.

MOTION

SEN. CHRISTMANN MOVED that the Senate be on the Fourth, Fifth, Seventh, and Thirteenth orders of business and at the conclusion of those orders, the Senate stand adjourned until 8:30 a.m., Wednesday, April 15, 2009, which motion prevailed.

REPORT OF STANDING COMMITTEE

HB 1012, as engrossed: Appropriations Committee (Sen. Holmberg, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1012 was placed on the Sixth order on the calendar.

Page 1, line 2, after the first semicolon insert "to provide a contingent appropriation;"

Page 1, line 3, replace the first "and" with "to create and enact a new subsection to section 50-25.1-05 of the North Dakota Century Code, relating to the adoption of rules regarding the recording of interviews in child abuse or neglect cases;" and after "25-04-05" insert ", 50-06-29, 50-24.1-02.6"

Page 1, line 4, after "screenings" insert ", the establishment of an aging and disability resource link, medical assistance eligibility"

Page 1, line 5, after "fund" insert "; and to repeal section 4 of chapter 422 of the 2007 Session Laws, relating to the effective date of the expansion of medical assistance benefits"

Page 1, line 17, replace "2,148,542" with "7,664,509" and replace "13,660,900" with "19,176,867"

Page 1, line 18, replace "(13,582,286)" with "(12,979,144)" and replace "46,528,070" with "47,131,212"

Page 1, line 20, replace "(\$11,434,02911)" with "(\$5,314,920)" and replace "60,188,970" with "66,308,079"

Page 1, line 21, replace "(16,622,573)" with "(14,544,808)" and replace "34,041,261" with "36,119,026"

Page 1, line 22, replace "5,188,544" with "9,229,888" and replace "26,147,709" with "30,189,053"

Page 2, line 3, replace "18,552,432" with "16,221,145" and replace "43,963,473" with "41,632,186"

Page 2, line 4, replace "4,364,279" with "6,622,596" and replace "72,176,081" with "74,434,398"

Page 2, line 6, replace "111,111,588" with "111,781,588" and replace "455,130,804" with "455,800,804"

Page 2, line 7, replace "189,244,935" with "214,327,791" and replace "1,306,432,756" with "1,331,515,612"

Page 2, line 10, replace "310,797,543" with "336,477,429" and replace "1,877,716,114" with "1,903,396,000"

Page 2, line 11, replace "223,418,640" with "271,725,995" and replace "1,350,082,207" with "1,398,389,562"

Page 2, line 12, replace "87,378,903" with "64,751,434" and replace "527,633,907" with "505,006,438"

Page 2, line 17, replace "715,235" with "1,026,397" and replace "8,209,132" with "8,520,294"

Page 2, line 18, replace "2,135,169" with "4,080,946" and replace "18,917,773" with "20,863,550"

Page 2, line 19, replace "823,712" with "1,153,359" and replace "10,641,067" with "10,970,714"

Page 2, line 20, replace "3,509,556" with "4,178,237" and replace "25,616,905" with "26,285,586"

Page 2, line 21, replace "3,699,225" with "5,370,959" and replace "29,760,855" with "31,432,589"

Page 2, line 22, replace "573,509" with "1,101,416" and replace "15,257,320" with "15,785,227"

Page 2, line 23, replace "3,675,196" with "4,489,089" and replace "24,362,468" with "25,176,361"

Page 2, line 24, replace "964,207" with "1,891,646" and replace "10,762,996" with "11,690,435"

Page 2, line 25, replace "9,519,982" with "12,508,784" and replace "66,911,926" with "69,900,728"

Page 2, line 26, replace "6,195,786" with "7,221,144" and replace "52,989,719" with "54,015,077"

Page 2, line 27, replace "31,811,577" with "43,021,977" and replace "263,430,161" with "274,640,561"

Page 2, line 28, replace "12,094,114" with "16,139,178" and replace "124,851,343" with "128,896,407"

Page 2, line 29, replace "19,717,463" with "26,882,799" and replace "138,578,818" with "145,744,154"

Page 3, line 3, replace "112,284,910" with "101,828,152" and replace "692,360,434" with "681,903,676"

Page 3, line 4, replace "218,890,181" with "359,292,050" and replace "1,508,974,811" with "1,649,376,680"

Page 3, line 5, replace "331,175,091" with "461,120,202" and replace "2,201,335,245" with "2,331,280,356"

Page 3, after line 6, insert:

"SECTION 2. APPROPRIATION - FEDERAL FISCAL STIMULUS FUNDS - ADDITIONAL FUNDING APPROVAL. The funds provided in this section, or so much of the funds as may be necessary, are appropriated from federal funds made available to the state under the federal American Recovery and Reinvestment Act of 2009, not otherwise appropriated, to the department of human services for the period beginning with the effective date of this Act and ending June 30, 2011, as follows:

Federal medical assistance percentage	\$66,500,000
Elderly nutrition services	485,000
Child support incentive matching funds	3,200,000
Rehabilitation services and disability assistance and independent living	2,043,000
Individuals With Disabilities Education Act - Part C	2,140,000
Supplemental nutrition assistance program benefits and administration	9,874,747
Senior employment program	143,288
Older blind	<u>3,170</u>
Total federal funds	\$84,389,205

The department of human services may seek emergency commission and budget section approval under chapter 54-16 for authority to spend any additional federal funds received under the federal American Recovery and Reinvestment Act of 2009 in excess of the amounts appropriated in this section for the period beginning with the effective date of this Act and ending June 30, 2011.

Any federal funds appropriated under this section, except for the funding of \$66,500,000 relating to the federal medical assistance percentage and funding of \$2,763,082 of child support incentive matching funds, are not a part of the agency's 2011-13 base budget. Any program expenditures made with these funds will not be replaced with state funds after the federal American Recovery and Reinvestment Act funds are no longer available.

SECTION 3. GENERAL FUND TRANSFER TO BUDGET STABILIZATION FUND - EXCEPTION - USE OF GENERAL FUND AMOUNTS. Notwithstanding section 54-27.2-02, the state treasurer and the office of management and budget may not include in the amount used to determine general fund transfers to the budget stabilization fund at the end of the 2007-09 biennium under chapter 54-27.2 any general fund amounts resulting from the increased federal share of medical assistance payments resulting from federal medical assistance percentage changes under the federal American Recovery and Reinvestment Act of 2009. The state treasurer and the office of management and budget shall separately account for these amounts and 2009-11 biennium general fund amounts resulting from federal medical assistance percentage changes under the federal American Recovery and Reinvestment Act of 2009 and use these amounts to defray the expenses of continuing program costs of the department of human services from the general fund for the biennium beginning July 1, 2009, and ending June 30, 2011, as follows:

Inflationary increases for human service providers	\$32,564,450
Rate increases for selected medicaid services due to rebasing	21,788,982
Rate increases for nursing homes due to property limit changes	3,000,000
Wage increases for employees of nursing homes, basic care, and developmental disabilities services providers and qualified service providers	15,867,327
Global behavioral health initiative	4,088,873
Salary increases for department of human services employees	<u>18,949,591</u>
Total	\$96,259,223

SECTION 4. CONTINGENT APPROPRIATION. If section 23 of this Act becomes effective, there is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$964,031, or so much of the sum as may be necessary, and from special funds derived from federal funds, the sum of \$1,582,480, or so much of the sum as may be necessary, to the department of human services for the purpose of defraying the expenses of implementing the expansion of medical assistance benefits for pregnant women as provided for in section 23 of this Act, for the biennium beginning July 1, 2009, and ending June 30, 2011."

Page 4, remove lines 22 through 29

Page 5, line 1, replace "\$14,739,128" with "\$22,576,412" and replace "\$4,950,451" with "\$7,927,252"

Page 5, line 2, replace "\$8,788,677" with "\$13,649,160"

Page 5, line 4, replace "each employee earning a salary that is less than the eightieth" with "employees beginning July 1, 2009. Basic care and skilled nursing care facilities may not use the money received under this section for providing salary and benefit enhancements to administrators or directors of nursing."

Page 5, remove lines 5 and 6

Page 5, line 9, replace "\$18,929,151" with "\$21,639,106" and replace "\$7,000,000" with "\$7,086,807"

Page 5, line 10, replace "\$11,929,151" with "\$14,552,299"

Page 5, line 11, replace "each employee earning a" with "employees beginning July 1, 2009. Developmental disabilities service providers may not use the money received under this section for providing salary and benefit enhancements to administrators."

Page 5, replace lines 12 and 13 with:

"SECTION 12. LEGISLATIVE INTENT - MEDICAID PROVIDER PAYMENTS.

It is the intent of the legislative assembly that the department of human services establish a goal to set medicaid payments for hospitals, physicians, chiropractors, and ambulances at 100 percent of cost.

SECTION 13. SUPPLEMENTAL PAYMENT - CRITICAL ACCESS

HOSPITALS. The grants - medical assistance line item in subdivision 2 of section 1 of this Act includes the sum of \$400,000 from the general fund that the department of human services shall use for providing a supplemental payment to eligible critical access hospitals. A critical access hospital is eligible for a payment under this section only if its percentage of medical payments exceeds 25 percent of its total annual revenue in its most recent audited financial statements and is located in a city with a population that does not exceed 1,450. The department shall seek federal medicaid funding to provide a portion of the \$400,000 supplement payment. If federal medicaid funding is not available for a portion of the payment, the department may spend the \$400,000 from the general fund for making the supplemental payment only if the action will not result in a reduction in federal medicaid funding to the state.

SECTION 14. LEGISLATIVE INTENT - DEVELOPMENTAL DISABILITIES MEDICALLY FRAGILE.

It is the intent of the sixty-first legislative assembly that the additional funding for severely medically fragile and behaviorally challenged individuals be provided to the Anne Carlsen center and other similar private providers serving individuals with developmental disabilities in proportion to the respective severity of the critical medical and behavioral needs of each individual served by these providers. The funding is to become part of each provider's annual base budget and is not to reduce each provider's entitlement to additional critical needs staffing in future ratesetting by the department.

SECTION 15. LEGISLATIVE INTENT - DEMENTIA CARE SERVICES.

It is the intent of the sixty-first legislative assembly that the department of human services integrate the dementia care services program established in House Bill No. 1043 with the home and community-based care services programs of the department.

SECTION 16. LEGISLATIVE COUNCIL STUDY - RETURNING VETERANS AND THEIR FAMILIES.

During the 2009-11 interim, the legislative council shall consider studying the impact of veterans who are returning from wars and their families on the state's human services system. The study must include an analysis of the estimated cost of providing human service-related services to the returning veterans and their families, including treatment for traumatic brain injury and mental illness. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-second legislative assembly.

SECTION 17. LEGISLATIVE INTENT - HOME TELEMONITORING SERVICES.

It is the intent of the sixty-first legislative assembly that the department of

human services consider the changes necessary to reimburse home telemonitoring services under the medicaid program at the same rate as skilled nursing visits provided in person.

SECTION 18. UNSPENT 2007-09 BIENNIUM - GENERAL FUND APPROPRIATIONS - EXCEPTION. The amount of \$270,000 of the \$3,100,000 for a sexual offender treatment addition at the state hospital appropriated in subdivision 3 of section 3 of 2007 Senate Bill No. 2012 is not subject to section 54-44.1-11 and may be spent during the 2009-11 biennium for completing roof repair at the state hospital."

Page 7, after line 21, insert:

"SECTION 20. AMENDMENT. Section 50-06-29 of the North Dakota Century Code is amended and reenacted as follows:

50-06-29. ~~Application for aging~~ Aging and disability resource center funding link - No wrong door model. ~~No later than December 31, 2007, the~~ The department of human services, within the limits of legislative appropriation, shall seek federal funds for the planning plan and implementation of implement an aging and disability resource center ~~for link, "no wrong door" model, initially in up to two regions of the state. The department also may provide additional services or may provide services in multiple regions as required or allowed by any source providing funds for these purposes. The initial resource center will be a single point of information program at the community level which link model~~ will help people residing in the state make informed decisions about the full range of long-term care service and support options, including both institutional and home and community-based care, ~~and which~~ Participating access points will provide unbiased information and assistance to individuals needing either public or private resources, to professionals seeking assistance on behalf of their clients, and to individuals planning for their future long-term care needs. Upon receipt of ~~federal funds~~ funding, the department of human services may establish the initial aging and disability resource center ~~link, "no wrong door" model,~~ or it may request bids and award ~~a contract~~ contracts for the ~~provision of this service~~ training and coordination to implement the model utilizing existing community-based access points and for the provision of services. ~~The duties of the aging and disability resource center must include all duties initial model and any subsequent model or variation of the model, as well as any additional locations will provide services consistent with those required to receive federal funds, including by the 2006 amendments to the Older Americans Act [Pub. L. 109-365; 120 Stat. 2522; 42 U.S.C. 3001 et seq.], providing information about the full range of long-term care service and support options available in the state to assure that consumers may make informed decisions about their care. The resource center link's participating access points must be free from a conflict of interest which would inappropriately influence or bias the actions of a contractor, staff member, board member, or volunteer of the resource center access points to limit the information given to a consumer to steer the consumer to services that may also be provided by the resource center access points.~~

SECTION 21. AMENDMENT. Section 50-24.1-02.6 of the North Dakota Century Code is amended and reenacted as follows:

50-24.1-02.6. ~~(Contingent effective date - See note) Medical assistance benefits - Eligibility criteria:~~

1. ~~The department shall provide medical assistance benefits to otherwise eligible persons who are:~~
 - a. ~~Medically needy persons who have countable income that does not exceed an amount determined under subsection 2; and~~
 - b. ~~Minors who have countable income that does not exceed an amount determined under subsection 3.~~
2. ~~The department of human services shall establish an income level for medically needy persons at an amount, no less than required by federal law, that, consistent with the requirements of subsection 3, is the greatest income level achievable without exceeding legislative appropriations for that purpose.~~
3. ~~The department of human services shall establish income levels for minors, based on the age of the minors, at amounts, no less than required by federal law, that provide an income level for all minors born before~~

~~September 30, 1983, equal to one hundred percent of the federal poverty level in the month for which eligibility for medical assistance benefits is being determined and that do not exceed legislative appropriations for that purpose.~~

4. ~~The department of human services shall provide medical assistance benefits to children and families coverage groups and pregnant women without consideration of assets.~~

(Contingent effective date — See note) Medical assistance benefits - Eligibility criteria.

1. The department shall provide medical assistance benefits to otherwise eligible persons who are:
 - a. Medically needy persons who have countable income that does not exceed an amount determined under subsection 2; and
 - b. Minors who have countable income that does not exceed an amount determined under subsection 3.
2. The department of human services shall establish an income level for medically needy persons at an amount, no less than required by federal law, that, consistent with the requirements of subsection 3, is the greatest income level achievable without exceeding legislative appropriations for that purpose.
3. The department of human services shall establish income levels for minors, based on the age of the minors, at amounts, no less than required by federal law, ~~that provide an income level for all individuals from birth through age eighteen equal to one hundred thirty three percent of the federal poverty level in the month for which eligibility for medical assistance benefits is being determined.~~
4. The department of human services shall provide medical assistance benefits to children and families coverage groups and pregnant women without consideration of assets.

SECTION 22. AMENDMENT. Section 50-24.1-02.6 of the North Dakota Century Code is amended and reenacted as follows:

50-24.1-02.6. (Contingent effective date — See note) Medical assistance benefits — Eligibility criteria.

1. ~~The department shall provide medical assistance benefits to otherwise eligible persons who are:~~
 - a. ~~Medically needy persons who have countable income that does not exceed an amount determined under subsection 2; and~~
 - b. ~~Minors who have countable income that does not exceed an amount determined under subsection 3.~~
2. ~~The department of human services shall establish an income level for medically needy persons at an amount, no less than required by federal law, that, consistent with the requirements of subsection 3, is the greatest income level achievable without exceeding legislative appropriations for that purpose.~~
3. ~~The department of human services shall establish income levels for minors, based on the age of the minors, at amounts, no less than required by federal law, that provide an income level for all minors born before September 30, 1983, equal to one hundred percent of the federal poverty level in the month for which eligibility for medical assistance benefits is being determined and that do not exceed legislative appropriations for that purpose.~~
4. ~~The department of human services shall provide medical assistance benefits to children and families coverage groups and pregnant women without consideration of assets.~~

~~(Contingent effective date -- See note)~~ **Medical assistance benefits - Eligibility criteria.**

1. The department shall provide medical assistance benefits to otherwise eligible persons who are:
 - a. Medically needy persons who have countable income that does not exceed an amount determined under subsection 2; and
 - b. Minors who have countable income that does not exceed an amount determined under subsection 3.
2. The department of human services shall establish an income level for medically needy persons at an amount, no less than required by federal law, that, consistent with the requirements of ~~subsection~~ subsections 3 and 4, is the greatest income level achievable without exceeding legislative appropriations for that purpose.
3. The department of human services shall establish income levels for minors, based on the age of the minors, at amounts, no less than required by federal law, ~~that provide an income level for all individuals from birth through age eighteen equal to one hundred thirty three percent of the federal poverty level in the month for which eligibility for medical assistance benefits is being determined.~~
4. The department of human services shall establish income levels for pregnant women at an amount, no less than required by federal law, equal to one hundred sixty-five percent of the federal poverty level in the month for which eligibility for medical assistance benefits is being determined.
5. The department of human services shall provide medical assistance benefits to children and families coverage groups and pregnant women without consideration of assets."

Page 7, after line 29, insert:

"SECTION 24. A new subsection to section 50-25.1-05 of the North Dakota Century Code is created and enacted as follows:

The department shall adopt rules that require all interviews of the alleged abused or neglected child conducted under this section to be audio-recorded or video-recorded, when possible. The rules must provide that a recording may not be disclosed except in accordance with section 50-25.1-11."

Page 8, after line 21, insert:

"SECTION 26. REPEAL. Section 4 of chapter 422 of the 2007 Session Laws is repealed.

SECTION 27. EFFECTIVE DATE. Section 23 of this Act becomes effective on the date the department of human services certifies to the legislative council that the department has received approval to claim federal financial participation to expand medical assistance benefits to pregnant women as provided for in section 1 of this Act, but may not become effective earlier than January 1, 2010.

SECTION 28. EMERGENCY. Sections 2 and 18 of this Act are declared to be an emergency measure."

ReNUMBER accordingly

STATEMENT OF PURPOSE OF AMENDMENT - LC 98013.0209 FN 4

A copy of the statement of purpose of amendment is on file in the Legislative Council Office.

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

Fran A. Gronberg, Secretary

