

## JOURNAL OF THE HOUSE

## Fifty-second Legislative Assembly

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Bismarck, April 9, 1991

The House convened at 8:00 a.m., with Speaker R. Anderson presiding.

The prayer was offered by Deacon Alvin W. Schwindt, Ascension Catholic Church, Bismarck.

The roll was called and all members were present except Representatives Berg, G., Flaagan, Freier, Gorder, Hokana, Kretschmar, Nicholas, Nichols, Ring, Rydell, Stofferahn.

A quorum was declared by the Speaker.

## MOTION

REP. KLOUBEC MOVED that the House be on the Seventh order of business, and at the conclusion of the Seventh order, the House stand adjourned until 10:00 a.m., which motion prevailed.

## DELIVERY OF ENROLLED BILLS AND RESOLUTIONS

The following bills were delivered to the Governor for his approval at the hour of 3:27 p.m., April 8, 1991: HB 1461, HB 1613.

## MESSAGE to the SENATE from the HOUSE (Roy Gilbreath, Chief Clerk)

MR. PRESIDENT: The House has not adopted the conference committee report on HB 1013 and HB 1611.

## MESSAGE to the SENATE from the HOUSE (Roy Gilbreath, Chief Clerk)

MR. PRESIDENT: The House has adopted the conference committee report on HB 1002, HB 1014, HB 1020, HB 1167, HB 1378, and HB 1534 and subsequently passed the same.

## SIGNING of BILLS and RESOLUTIONS

The Speaker signed the following enrolled bills: SB 2069, SB 2169, SB 2346, SB 2384, SB 2509.

## SIGNING of BILLS and RESOLUTIONS

The Speaker signed the following enrolled bills and resolution: HB 1051, HB 1061, HB 1135, HB 1138, HB 1145, HB 1152, HB 1262, HB 1300, HB 1313, HB 1333, HB 1343, HB 1381, HB 1424, HB 1441, HB 1450, HB 1483, HB 1507, HB 1509, HB 1556, HB 1569, HB 1571, HCR 3038.

## SIGNING of BILLS and RESOLUTIONS

The Speaker signed the following enrolled bills: SB 2007, SB 2008, SB 2023, SB 2067, SB 2083, SB 2118, SB 2211, SB 2249, SB 2259, SB 2272, SB 2422, SB 2425.

## REPORT OF CONFERENCE COMMITTEE

HB 1031, as reengrossed: Your conference committee (Sens. Mushik, Thane, Mathern and Reps. Jensen, Dalrymple, Stofferahn) recommends that the SENATE RECEDE from the Senate amendments on HJ pages 1696-1697, amend as follows, and then place on the Seventh order:

That the Senate recede from its amendments as printed on page 1379 and 1380 of the Senate Journal, and that Reengrossed House Bill No. 1031 be amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act relating to a property cost reimbursement study and property cost reimbursement to certain nursing homes; to provide an appropriation; and to provide an expiration date."

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

## SECTION 1. Property reimbursement study - Reimbursement in certain cases.

1. The department of human services shall study the medical assistance property cost reimbursement system for the nursing home industry in the state of North Dakota. The department shall establish a nine-member advisory committee for the study consisting of departmental staff, at least three representatives of the long-term care industry, and three legislative members appointed by the chairman of the legislative council. The department may expend funds to engage a qualified consulting firm to assist in the study and shall from time to time report on the progress of the study and any findings to the legislative council or a committee designated by the council. The legislative council shall report any findings and recommendations, together with any legislation required to implement the recommendations, to the fifty-third legislative assembly.
2. The department shall reimburse nursing home providers that are vendors in the medical assistance program for the use of real estate and depreciable equipment that was purchased by the nursing home provider after July 1, 1985, and before January 1, 1991, based on property costs created by good faith, arm's length purchase agreements. For purposes of this Act, "property costs" means property taxes including special assessments, lease and rental costs of personal property and reasonable legal expense, all to the extent allowable under chapter 50-24.4 and rules adopted by the department; interest expense allowable under rules adopted by the department without the application of subdivision f of subsection 1 of section 75-02-06-04 of the North Dakota Administrative Code; personal property depreciation based upon purchase price paid by the buyer; and real property depreciation based upon current reproduction cost of those assets depreciated on a straight-line basis over their useful lives to the date of acquisition by the buyer and increased by one-half of the percentage increase in the consumer price index for all urban consumers (United States city average) from the date of acquisition by the seller to the date of acquisition by the buyer, or the purchase price paid by the buyer, whichever is lower.

SECTION 2. APPROPRIATION. There is hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$75,000, or so much thereof as may be necessary, and \$75,000 from special funds, to the department of human services for the purpose of undertaking the study provided for in section 1 of this Act, for the period beginning July 1, 1991, and ending June 30, 1993.

SECTION 3. Property cost reimbursement. The department of human services shall provide the additional property cost reimbursement required by this Act from funds appropriated to the department in Senate Bill No. 2002 of the fifty-second legislative assembly. It is the intent of the legislative assembly that the \$783,345, of which \$184,086 is from the general fund, necessary to fund the additional reimbursement required by this Act, will be available through the department's recapture of depreciation related to the sales between the Benedictine health systems and Beverly enterprises.

SECTION 4. EXPIRATION DATE. This Act is effective through June 30, 1993, and after that date is ineffective."

MESSAGE to the SENATE from the HOUSE (Roy Gilbreath, Chief Clerk)  
MR. PRESIDENT: The Speaker has signed: SB 2069, SB 2169, SB 2346, SB 2384, SB 2509.

MESSAGE to the SENATE from the HOUSE (Roy Gilbreath, Chief Clerk)  
MR. PRESIDENT: The Speaker has signed and your signature is respectfully requested on: HB 1051, HB 1061, HB 1135, HB 1138, HB 1145, HB 1152, HB 1262, HB 1300, HB 1313, HB 1333, HB 1343, HB 1381, HB 1424, HB 1441, HB 1450, HB 1483, HB 1507, HB 1509, HB 1556, HB 1569, HB 1571, HCR 3038.

MESSAGE to the SENATE from the HOUSE (Roy Gilbreath, Chief Clerk)  
MR. PRESIDENT: The House has adopted the conference committee report on SB 2009, SB 2015, SB 2025, SB 2258, and SB 2451 and subsequently passed the same.

MESSAGE to the SENATE from the HOUSE (Roy Gilbreath, Chief Clerk)  
MR. PRESIDENT: The House has amended and subsequently failed to pass: SB 2339.

MESSAGE to the SENATE from the HOUSE (Roy Gilbreath, Chief Clerk)  
MR. PRESIDENT: The Speaker has signed: SB 2007, SB 2008, SB 2023, SB 2067, SB 2083, SB 2118, SB 2211, SB 2249, SB 2259, SB 2272, SB 2422, SB 2425.

THE HOUSE RECONVENED pursuant to recess taken, with Speaker R. Anderson presiding.

#### CONSIDERATION OF MESSAGE FROM THE SENATE

REP. MARTINSON MOVED that the House do concur in the Senate amendments to HB 1603 as printed on HJ pages 1790-1791, which motion prevailed.

HB 1603, as amended, was placed on the Eleventh order of business on the calendar.

#### SECOND READING OF HOUSE BILL

HB 1603: A BILL for an Act to amend and reenact sections 54-35-02.3 and 54-35-02.4 of the North Dakota Century Code, relating to the membership of the legislative council's committee on public employees retirement programs and its jurisdiction over public employee and retiree health plans.

#### ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 95 YEAS, 5 NAYS, 0 EXCUSED, 6 ABSENT AND NOT VOTING.

YEAS: Anderson, B.; Bateman; Belter; Berg, G.; Berg, R.; Bernstein; Bodine; Boehm; Boucher; Brokaw; Brown; Byerly; Carlisle; Carlson; Clayburgh; Cleary; Coats; Dalrymple; Delzer; DeMers; DeWitz; Dorso; Enget; Freier; Gabrielson; Gates; Gerntholz; Gilmore; Goffe; Gordier; Gorman; Grosz; Grumbo; Hanson; Hausauer; Henegar; Howard; Huether; Jensen; Kaldor; Kelsch; Kloubec; Kolbo; Kretschmar; Kroeber; Kunkel; Larson; Laughlin; Linderman; Mahoney; Martin; Martinson; Miller; Muhs; Mutzenberger; Myrdal; Nelson; Nicholas; Nowatzki; Oban; Olsen, D.; Olson, A.; Payne; Peterson; Porter; Price; Pyle; Rennerfeldt; Ritter; Rydell; Scherber; Schimke; Schindler; Schneider; Shide; Skar; Skjerven; Snyder; Soukup; St. Aubyn; Starke; Stofferahn; Svedjan; Thompson; Thorpe; Timm; Tollefson; Trautman; Urlacher; Wald; Wardner; Wentz; Wilkie; Williams; Speaker R. Anderson

NAYS: Aarsvold; Jacobson; Kerzman; Meyer; Ring

ABSENT AND NOT VOTING: Erickson; Flaagan; Hokana; Nichols; Schmidt; Whalen

HB 1603 passed and the title was agreed to.

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## MOTION

REP. WENTZ MOVED that the House reconsider its action whereby the conference committee report on Engrossed HB 1013 was not adopted.

## REQUEST

REP. TOLLEFSON REQUESTED a recorded roll call vote on the motion to reconsider the action whereby the conference committee report on Engrossed HB 1013 was not adopted.

## ROLL CALL

The question being on the motion to reconsider the action whereby the conference committee report on Engrossed HB 1013 was not adopted, the roll was called and there were 85 YEAS, 17 NAYS, 0 EXCUSED, 4 ABSENT AND NOT VOTING.

YEAS: Aarsvold; Anderson, B.; Bateman; Berg, G.; Berg, R.; Bernstein; Bodine; Boehm; Boucher; Brokaw; Carlisle; Carlson; Cleary; Coats; Delzer; DeMers; Enget; Gabrielson; Gates; Gerntholz; Gilmore; Goffe; Gorder; Grosz; Grumbo; Hanson; Hausauer; Henegar; Hokana; Huether; Jacobson; Jensen; Kaldor; Kelsch; Kerzman; Kolbo; Kretschmar; Kroeber; Kunkel; Larson; Laughlin; Linderman; Mahoney; Martin; Martinson; Meyer; Miller; Muhs; Mutzenberger; Myrdal; Nelson; Nicholas; Nowatzki; Oban; Olsen, D.; Olson, A.; Peterson; Porter; Price; Pyle; Rennerfeldt; Ring; Ritter; Rydell; Scherber; Schimke; Schindler; Schneider; Shide; Skar; Snyder; St. Aubyn; Starke; Stofferahn; Svedjan; Thorpe; Timm; Tollefson; Trautman; Urlacher; Wardner; Wentz; Wilkie; Williams; Speaker R. Anderson

NAYS: Belter; Brown; Byerly; Dalrymple; DeWitz; Dorso; Freier; Gorman; Howard; Kloubec; Payne; Schmidt; Skjerven; Soukup; Thompson; Wald; Whalen

ABSENT AND NOT VOTING: Clayburgh; Erickson; Flaagan; Nichols

So the motion to reconsider the action whereby the conference committee report on Engrossed HB 1013 was not adopted prevailed.

## REPORT OF CONFERENCE COMMITTEE

REP. HOWARD MOVED that the conference committee report on Engrossed HB 1013 as printed on HJ page 1779 be adopted, which motion prevailed.

Engrossed HB 1013, as amended, was placed on the Eleventh order of business on the calendar.

## SECOND READING OF HOUSE BILL

HB 1013: A BILL for an Act making an appropriation for defraying the expenses of the state fair association.

## ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 95 YEAS, 8 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

YEAS: Aarsvold; Anderson, B.; Bateman; Berg, G.; Berg, R.; Bernstein; Bodine; Boehm; Boucher; Brokaw; Carlisle; Carlson; Clayburgh; Cleary; Coats; Dalrymple; Delzer; DeMers; DeWitz; Dorso; Enget; Freier; Gabrielson; Gates; Gerntholz; Gilmore; Goffe; Gorder; Gorman; Grosz; Grumbo; Hanson; Hausauer; Henegar; Hokana; Huether; Jacobson; Jensen; Kaldor; Kelsch; Kerzman; Kolbo; Kretschmar; Kroeber; Kunkel; Larson; Laughlin; Linderman; Mahoney; Martin; Martinson; Meyer; Miller; Muhs; Mutzenberger; Myrdal; Nelson; Nicholas; Nowatzki; Olsen, D.; Olson, A.; Peterson; Porter; Price; Pyle; Rennerfeldt; Ring; Ritter; Rydell; Scherber; Schimke; Schindler; Schmidt; Schneider; Shide; Skar; Skjerven; Snyder; St. Aubyn; Starke; Stofferahn; Svedjan; Thompson;

Thorpe; Timm; Tollefson; Trautman; Urlacher; Wald; Wardner; Wentz;  
Whalen; Wilkie; Williams; Speaker R. Anderson

NAYS: Belter; Brown; Byerly; Howard; Kloubec; Oban; Payne; Soukup

ABSENT AND NOT VOTING: Erickson; Flaagan; Nichols

Engrossed HB 1013 passed and the title was agreed to.

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MESSAGE to the HOUSE from the SENATE (Marion Houn, Secretary)

MR. SPEAKER: The Senate has concurred in the House amendments to SB 2006, SB 2070, and SB 2541 and subsequently passed the same.

MESSAGE to the HOUSE from the SENATE (Marion Houn, Secretary)

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

SB 2234: Sens. Marks; Meyer; Stenehjem

MESSAGE to the HOUSE from the SENATE (Marion Houn, Secretary)

MR. SPEAKER: The Senate has dissolved its Conference Committee on HB 1439 and has appointed as a new conference committee to act with a like committee from the House on:

HB 1439: Sens. Schoenwald; Meyer; David

MESSAGE to the HOUSE from the SENATE (Marion Houn, Secretary)

MR. SPEAKER: The Senate has amended and subsequently passed: HB 1079.

Page 3, line 21, replace "Any" with "Except for a person who delivers marijuana, any"

Page 4, line 3, replace "first" with "second"

Page 4, line 5, replace "second" with "third"

Page 4, line 7, replace "third" with "fourth"

Page 5, line 1, after "person" insert ", eighteen years of age or older,"

Renumber accordingly

MESSAGE to the HOUSE from the SENATE (Marion Houn, Secretary)

MR. SPEAKER: The Senate has adopted the conference committee report on SB 2039, SB 2507, and SB 2595 and subsequently passed the same.

#### MOTION

REP. KLOUBEC MOVED that the House be on the Seventh and Twelfth orders of business and at the conclusion of those orders, that the House stand in recess until 1:00 p.m., which motion prevailed.

#### REPORTS OF CONFERENCE COMMITTEES

SB 2039: Your conference committee (Sens. Krauter (refused to sign), Tomac, Traynor and Reps. Timm, Carlisle, Huether (refused to sign)) recommends that the SENATE ACCEDE to the House amendments on HJ pages 1138-1140 and then place it on the Seventh order.

SB 2507: Your conference committee (Sens. Keller, Heinrich, Evanson and Reps. Clayburgh, Kunkel, Gabrielson) recommends that the HOUSE RECEDE from the House amendments on HJ page 1662, amend as follows, and then place on the Seventh order:

That the House recede from its amendments as printed on page 1662 of the House Journal and pages 1492 and 1493 of the Senate Journal, and that Senate Bill No. 2507 be amended as follows:

Page 1, line 1, after "reenact" insert "section 54-52-17.4 and"

Page 1, line 2, after "to" insert "purchase of additional credit under the public employees retirement system and to"

Page 1, after line 5, insert:

"SECTION 1. AMENDMENT. Section 54-52-17.4 of the North Dakota Century Code is amended and reenacted as follows:

54-52-17.4. Purchase of additional credit.

1. A participating member may elect to purchase credit, within one hundred eighty days of beginning eligible employment or by December 31, ~~1989~~ 1991, whichever is later, for years of service and prior service for which the participating member is not presently receiving credit. A member is entitled to purchase additional credit under this section for the following service or prior service:
  - a. Active employment in the armed forces of the United States for up to four years of credit.
  - b. Employment as a permanent employee by a governmental unit that does not participate in the public employees retirement system under this chapter.
  - c. Employment as a permanent employee by a political subdivision participating in the public employees retirement system which did not pay the cost of past service benefits under section 54-52-02.1.
  - d. Service the participating member did not elect to repurchase upon reemployment under section 54-52-02.6.
  - e. Service of an eligible employee, who exercised the privilege to withdraw from the predecessor plan to the public employees retirement system under subsection 10 of section 54-52-17 as created by section 13 of chapter 499 of the 1977 Session Laws, from July 1, 1977, to the date the eligible employee became a participating member of the public employees retirement system. However, participating members who were eligible, under section 54-52-19-2, to repurchase prior service credit forfeited by withdrawal from the predecessor plan to the public employees retirement system are not eligible to purchase that prior service credit under this section.
2. The participating member may purchase credit under this section by paying to the board an amount equal to nine and twelve-hundredths percent, times the participating member's monthly salary on the date of the participating member's election to purchase, times the number of months of credit being purchased, plus interest at a rate determined by rules established by the board."

Renumber accordingly

SB 2595, as engrossed: Your conference committee (Sens. Mathern, Robinson, Evanson and Reps. Payne, Hausauer, Brokaw) recommends that the HOUSE RECEDE from the House amendments on HJ page 1677, amend as follows, and then place on the Seventh order:

That the House recede from its amendments as printed on page 1677 of the House Journal and pages 1521 and 1522 of the Senate Journal, and that Engrossed Senate Bill No. 2595 be amended as follows:

Page 1, line 2, remove the first "and" and after the second semicolon insert "to provide a statement of legislative intent;"

Page 2, line 1, remove "certified"

Page 2, line 2, replace "January" with "July"

Page 2, line 5, replace "67,592" with "43,061", replace "157,714" with "107,212", and replace "225,306" with "150,273"

Page 2, line 6, replace "18,536" with "11,757", replace "43,250" with "29,364", and replace "61,786" with "41,121"

Page 2, line 7, replace "86,128" with "54,818", replace "200,964" with "136,576", and replace "287,092" with "191,394"

Page 2, after line 7, insert:

"SECTION 3. LEGISLATIVE INTENT. It is the intent of the legislative assembly that the general fund appropriation is made in conjunction with the availability of federal matching funds for this Act."

Page 2, line 8, replace "January" with "July"

Renumber accordingly

**MESSAGE to the HOUSE from the SENATE (Marion Houn, Secretary)**

MR. SPEAKER: The President has signed: HB 1051, HB 1061, HB 1135, HB 1138, HB 1145, HB 1152, HB 1262, HB 1300, HB 1313, HB 1333, HB 1343, HB 1381, HB 1424, HB 1441, HB 1450, HB 1483, HB 1507, HB 1509, HB 1556, HB 1569, HB 1571, HCR 3038.

**REPORT OF CONFERENCE COMMITTEE**

HB 1022: Your conference committee (Sens. Robinson, Redlin, Nething and Reps. R. Berg, Dorso, Starke) recommends that the SENATE RECEDE from the Senate amendments on HJ pages 1561-1562 and then place it on the Seventh order.

**SIGNING of BILLS and RESOLUTIONS**

THE CHIEF CLERK ANNOUNCED that the Speaker was about to sign the certification by which HB 1336 failed to pass over the Governor's veto, and the Speaker signed the same in the presence of the House of Representatives.

THE HOUSE RECONVENED pursuant to recess taken, with Speaker R. Anderson presiding.

**ANNOUNCEMENT**

SPEAKER R. ANDERSON ANNOUNCED that Rep. Hausauer would replace Rep. Payne on the Conference Committee on SB 2018.

**MESSAGE to the HOUSE from the SENATE (Marion Houn, Secretary)**

MR. SPEAKER: The Senate has not adopted the conference committee report on SB 2016.

**MOTION**

REP. KLOUBEC MOVED that HCR 3026 which is on the Seventh order, be laid over one legislative day, which motion prevailed.

**REPORT OF CONFERENCE COMMITTEE**

REP. GORMAN MOVED that the conference committee report on HB 1200 as printed on HJ pages 1802-1806 be adopted, which motion prevailed.

HB 1200, as amended, was placed on the Eleventh order of business on the calendar.

## SECOND READING OF HOUSE BILL

HB 1200: A BILL for an Act to create and enact a new section to chapter 57-57 of the North Dakota Century Code, relating to forest stewardship recognition; to amend and reenact sections 57-57-01, 57-57-02, 57-57-03, 57-57-04, 57-57-05, 57-57-06, 57-57-07, 57-57-08, 57-57-09, and 57-57-10 of the North Dakota Century Code, relating to changing the name of the native woodland tax to the forest stewardship tax, describing property that may qualify for the forest stewardship tax, setting the rate and manner of collection of the tax, describing the duties of the state forester and board of county commissioners, and providing for hearings; 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 101 YEAS, 4 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Aarsvold; Anderson, B.; Bateman; Belter; Berg, G.; Berg, R.; Bernstein; Bodine; Boehm; Brown; Byerly; Carlisle; Carlson; Clayburgh; Cleary; Coats; Dalrymple; Delzer; DeMers; DeWitz; Dorso; Erickson; Flaagan; Freier; Gabrielson; Gates; Gerntholz; Gilmore; Goffe; Gorder; Grosz; Grumbo; Hanson; Hausauer; Henegar; Hokana; Howard; Huether; Jacobson; Jensen; Kaldor; Kelsch; Kerzman; Kloubec; Kolbo; Kretschmar; Kroeber; Kunkel; Larson; Laughlin; Linderman; Mahoney; Martin; Martinson; Meyer; Miller; Muhs; Mutzenberger; Myrdal; Nelson; Nicholas; Nowatzki; Oban; Olsen, D.; Olson, A.; Payne; Peterson; Porter; Price; Pyle; Rennerfeldt; Ring; Ritter; Rydell; Scherber; Schimke; Schindler; Schmidt; Schneider; Shide; Skar; Skjerven; Snyder; Soukup; St. Aubyn; Starke; Stofferahn; Svedjan; Thompson; Thorpe; Timm; Tollefson; Trautman; Urlacher; Wald; Wardner; Wentz; Whalen; Williams; Speaker R. Anderson

NAYS: Boucher; Enget; Nichols; Wilkie

ABSENT AND NOT VOTING: Gorman

HB 1200 passed and the title was agreed to.

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## REPORT OF CONFERENCE COMMITTEE

REP. JENSEN MOVED that the conference committee report on Reengrossed HB 1031 be adopted, which motion prevailed.

Reengrossed HB 1031, as amended, was placed on the Eleventh order of business on the calendar.

## SECOND READING OF HOUSE BILL

HB 1031: A BILL for an Act relating to a property cost reimbursement study and property cost reimbursement to certain nursing homes; to provide an appropriation; 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 105 YEAS, 0 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Aarsvold; Anderson, B.; Bateman; Belter; Berg, G.; Berg, R.; Bernstein; Bodine; Boehm; Boucher; Brokaw; Brown; Byerly; Carlisle; Carlson; Clayburgh; Cleary; Coats; Dalrymple; Delzer; DeMers; DeWitz; Dorso; Enget; Erickson; Flaagan; Freier; Gabrielson; Gates; Gerntholz; Gilmore; Goffe; Gorder; Grosz; Grumbo; Hanson; Hausauer; Henegar; Hokana; Howard; Huether; Jacobson; Jensen; Kaldor; Kelsch; Kerzman; Kloubec; Kolbo; Kretschmar; Kroeber; Kunkel; Larson; Laughlin; Linderman; Mahoney; Martin; Martinson; Meyer; Miller; Muhs; Mutzenberger; Myrdal; Nelson; Nicholas; Nichols; Nowatzki; Oban; Olsen, D.; Olson, A.; Payne; Peterson; Porter; Price; Pyle;



Rennerfeldt; Ring; Ritter; Rydell; Scherber; Schimke; Schindler; Schmidt; Schneider; Shide; Skar; Skjerven; Snyder; Soukup; St. Aubyn; Starke; Stofferahn; Svedjan; Thompson; Thorpe; Timm; Tollefson; Trautman; Urlacher; Wald; Wardner; Wentz; Whalen; Wilkie; Williams; Speaker R. Anderson

ABSENT AND NOT VOTING: Gorman

Reengrossed HB 1031 passed and the title was agreed to.

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#### REPORT OF CONFERENCE COMMITTEE

REP. TIMM MOVED that the conference committee report on SB 2039 be adopted, which motion prevailed.

MESSAGE to the HOUSE from the SENATE (Marion Houn, Secretary)

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

SB 2016: Sens. Yockim; Satrom; Ingstad

MESSAGE to the HOUSE from the SENATE (Marion Houn, Secretary)

MR. SPEAKER: The Senate does not concur in the House amendments to SCR 4073, and the President has appointed as a conference committee to act with a like committee from the House on:

SCR 4073: Sens. Satrom; Kelsh; Naaden

#### REPORT OF CONFERENCE COMMITTEE

REP. CLAYBURGH MOVED that the conference committee report on SB 2507 be adopted, which motion prevailed.

SB 2507, as amended, was placed on the Fourteenth order of business on the calendar.

#### SECOND READING OF SENATE BILL

SB 2507: A BILL for an Act to amend and reenact section 54-52-17.4 and subsection 2 of section 54-52.1-03.3 of the North Dakota Century Code, relating to purchase of additional credit under the public employees retirement system and to calculation of the allowable monthly credit toward hospital and medical benefits coverage under the retiree health benefits fund.

#### ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 104 YEAS, 0 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

YEAS: Aarsvold; Anderson, B.; Bateman; Belter; Berg, G.; Berg, R.; Bernstein; Bodine; Boehm; Boucher; Brokaw; Brown; Byerly; Carlisle; Carlson; Clayburgh; Cleary; Coats; Dalrymple; Delzer; DeMers; DeWitz; Dorso; Enget; Erickson; Flaagan; Freier; Gabrielson; Gates; Gerntholz; Gilmore; Goffe; Gorder; Grosz; Grumbo; Hanson; Hausauer; Henegar; Hokana; Howard; Huether; Jacobson; Jensen; Kaldor; Kelsch; Kerzman; Kloubec; Kolbo; Kretschmar; Kroeber; Kunkel; Larson; Laughlin; Linderman; Mahoney; Martin; Martinson; Meyer; Miller; Muhs; Mutzenberger; Myrdal; Nelson; Nicholas; Nichols; Nowatzki; Oban; Olsen, D.; Olson, A.; Payne; Peterson; Porter; Price; Pyle; Rennerfeldt; Ring; Ritter; Rydell; Scherber; Schimke; Schindler; Schmidt; Schneider; Shide; Skar; Skjerven; Snyder; Soukup; St. Aubyn; Starke; Stofferahn; Svedjan; Thompson; Thorpe; Timm; Tollefson; Trautman; Urlacher; Wardner; Wentz; Whalen; Wilkie; Williams; Speaker R. Anderson

ABSENT AND NOT VOTING: Gorman; Wald

SB 2507 passed and the title was agreed to.

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#### REPORT OF CONFERENCE COMMITTEE

REP. PAYNE MOVED that the conference committee report on Engrossed SB 2595 be adopted, which motion prevailed.

Engrossed SB 2595, as amended, was placed on the Fourteenth order of business on the calendar.

#### SECOND READING OF SENATE BILL

SB 2595: A BILL for an Act to establish a child sexual abuse investigation and prosecution team; to provide an appropriation; to provide a statement of legislative intent; 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 105 YEAS, 0 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Aarsvold; Anderson, B.; Bateman; Belter; Berg, G.; Berg, R.; Bernstein; Bodine; Boehm; Boucher; Brokaw; Brown; Byerly; Carlisle; Carlson; Clayburgh; Cleary; Coats; Dalrymple; Delzer; DeMers; DeWitz; Dorso; Enget; Erickson; Flaagan; Freier; Gabrielson; Gates; Gerntholz; Gilmore; Goffe; Gordier; Grosz; Grumbo; Hanson; Hausauer; Henegar; Hokana; Howard; Huether; Jacobson; Jensen; Kaldor; Kelsch; Kerzman; Kloubec; Kolbo; Kretschmar; Kroeber; Kunkel; Larson; Laughlin; Linderman; Mahoney; Martin; Martinson; Meyer; Miller; Muhs; Mutzenberger; Myrdal; Nelson; Nicholas; Nichols; Nowatzki; Oban; Olsen, D.; Olson, A.; Payne; Peterson; Porter; Price; Pyle; Rennerfeldt; Ring; Ritter; Rydell; Scherber; Schimke; Schindler; Schmidt; Schneider; Shide; Skar; Skjervén; Snyder; Soukup; St. Aubyn; Starke; Stofferahn; Svedjan; Thompson; Thorpe; Timm; Tollefson; Trautman; Urlacher; Wald; Wardner; Wentz; Whalen; Wilkie; Williams; Speaker R. Anderson

ABSENT AND NOT VOTING: Gorman

Engrossed SB 2595 passed and the title was agreed to.

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#### REPORT OF CONFERENCE COMMITTEE

REP. R. BERG MOVED that the conference committee report on HB 1022 be adopted, which motion prevailed.

#### APPOINTMENT OF CONFERENCE COMMITTEE

THE SPEAKER ANNOUNCED the following appointment to a Conference Committee on SCR 4073: Reps. Trautman, Wardner, Scherber.

#### MOTION

REP. KLOUBEC MOVED that the House be on the Seventh order of business and at the conclusion of the Seventh order, the House stand in recess until 3:00 p.m., which motion prevailed.

#### DELIVERY OF ENROLLED BILLS AND RESOLUTIONS

The following bill and veto certification was delivered to the Secretary of State for his filing at the hour of 1:10 p.m. on April 9, 1991: HB 1336.

#### DELIVERY OF ENROLLED BILLS AND RESOLUTIONS

The following bills were delivered to the Governor for his approval at the hour of 1:12 p.m., April 9, 1991: HB 1051, HB 1061, HB 1135, HB 1138, HB 1145, HB 1152, HB 1262, HB 1300, HB 1313, HB 1333, HB 1343, HB 1381, HB 1424, HB 1441, HB 1450, HB 1483, HB 1507, HB 1509, HB 1556, HB 1569, HB 1571.

## ANNOUNCEMENT BY SPEAKER

THE SPEAKER ANNOUNCED that the Conference Committee on SB 2016 was discharged and the following were reappointed to a new Conference Committee on SB 2016: Reps. Myrdal, Wald, Nowatzki.

## HOUSE ENROLLING REPORT

The following bill was enrolled: HB 1048.

## HOUSE ENGROSSING AND ENROLLING REPORT

The following bill was engrossed and enrolled: HB 1383.

## SIGNING of BILLS and RESOLUTIONS

The Speaker signed the following enrolled bills: HB 1048, HB 1383.

## MESSAGE to the SENATE from the HOUSE (Roy Gilbreath, Chief Clerk)

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

SCR 4073: Reps. Trautman; Wardner; Scherber

## MESSAGE to the SENATE from the HOUSE (Roy Gilbreath, Chief Clerk)

MR. PRESIDENT: The House has adopted the conference committee report on HB 1013 and subsequently passed the same.

## MESSAGE to the SENATE from the HOUSE (Roy Gilbreath, Chief Clerk)

MR. PRESIDENT: The Speaker has appointed Rep. Hausauer to replace Rep. Payne on the Conference Committee on SB 2018.

## REPORTS OF CONFERENCE COMMITTEES

HB 1018, as engrossed: Your conference committee (Sens. Kelly, Mushik, Thane and Reps. Dalrymple, R. Berg, Wilkie) recommends that the SENATE RECEDE from the Senate amendments on HJ pages 1593-1594, amend as follows, and then place on the Seventh order:

That the Senate recede from its amendments as printed on pages 1333 and 1334 of the Senate Journal and pages 1593 and 1594 of the House Journal, and that Engrossed House Bill No. 1018 be amended as follows:

Page 1, line 13, replace "\$23,035" with "223,035"

Page 1, line 15, replace "1,720,936" with "5,069,369"

Page 1, line 16, replace "1,860,325" with "5,408,758"

Page 1, line 17, replace "1,755,383" with "3,303,816"

Page 1, line 18, replace "104,942" with "2,104,942"

Page 1, remove lines 19 through 22

Page 2, remove lines 1 and 2

ReNUMBER accordingly

## STATEMENT OF PURPOSE OF AMENDMENT:

## DEPARTMENT 324 - CHILDREN'S SERVICES COORDINATING COMMITTEE

The operating expenses line item is increased by \$200,000 from the general fund to provide \$100,000 per year for funding Families First programs in Regions 3 and 4 to support and evaluate Families First projects.

This amendment restores \$1,800,000 from the general fund removed in the House for grants to other state agencies for children at risk programs and \$462,415 of federal and other funds removed in the House for the Families First - project administration program for grants to the regional boards and other grants. In addition, federal and other funds of \$1,086,018 which may be

available as a result of the \$1,800,000 general fund appropriation are added to the grants line item. The increased grants are as follows:

| GRANT  | GENERAL<br>FUND | FEDERAL<br>FUNDS | OTHER<br>FUNDS | TOTAL       |
|--|-----------------|------------------|----------------|-------------|
| Department of<br>Human Services                    |                 |                  |                |             |
| Regional pre-<br>vention and<br>intervention       | \$ 150,000      |                  |                | \$ 150,000  |
| Day treatment                                      | 141,432         | \$189,000        | \$248,400      | 578,832     |
| Children and<br>adolescents<br>at risk teams       | 929,445         | 190,000          |                | 1,119,445   |
| Children's psy-<br>chiatric teams                  | 347,487         | 61,179           |                | 408,666     |
| Treatment for<br>sexually abused<br>children       |                 | 200,000          | 197,439        | 397,439     |
| Department of<br>Public Instruction                |                 |                  |                |             |
| Day treatment                                      | 173,916         |                  |                | 173,916     |
| Department of<br>Corrections and<br>Rehabilitation |                 |                  |                |             |
| Day treatment                                      | 57,720          |                  |                | 57,720      |
| Families First -<br>regional boards                |                 |                  | 202,385        | 202,385     |
| Other grants                                       |                 | 260,030          |                | 260,030     |
| Total  | \$1,800,000     | \$900,209        | \$648,224      | \$3,348,433 |

The following schedule compares the executive budget recommendation and the Conference Committee version by funding source:

|               | EXECUTIVE<br>BUDGET<br>RECOMMEN-<br>DATION | CONFERENCE<br>COMMITTEE<br>VERSION | CONFERENCE<br>COMMITTEE<br>CHANGE<br>TO THE<br>EXECUTIVE<br>BUDGET |
|---------------|--|------------------------------------|--|
| General fund  | \$2,111,375                                | \$2,104,942                        | \$ (6,433)   |
| Federal funds | 280,000                                    | 920,179                            | 640,179  |
| Other funds   | 1,937,798                                  | 2,383,637                          | 445,839  |
| Total         | \$4,329,173                                | \$5,408,758                        | \$1,079,585  |

HB 1021, as engrossed: Your conference committee (Sens. Yockim, Redlin, Lips and Reps. Dalrymple, Rydell, Wilkie) recommends that the SENATE RECEDE from the Senate amendments on HJ pages 1559-1561, amend as follows, and then place on the Seventh order:

That the Senate recede from its amendments as printed on pages 1559-1561 of the House Journal and pages 1334-1336 of the Senate Journal, and that Engrossed House Bill No. 1021 be amended as follows:

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

Page 1, line 3, after "fund" insert "; and to declare an emergency"

Page 2, line 17, replace "1,903,828" with "1,803,828"

Page 2, line 18, replace "4,866,546" with "4,966,546"

Page 2, remove lines 25 and 26

Page 2, line 27, replace "546,096" with "2,441,096"

Page 2, line 28, replace "16,563,133" with "18,283,133"

Page 3, line 1, replace "13,993,473" with "15,713,473"

Page 3, line 6, replace "3,668,700" with "5,468,700"

Page 3, line 9, replace "all" with "special" and replace "5,744,664" with "7,544,664"

Page 3, line 23, replace "24,624,889" with "26,444,889"

Page 3, line 24, replace "12,189,533" with "13,889,533"

Page 3, line 25, replace "36,814,422" with "40,334,422"

Page 4, line 2, after "corrections" insert "and rehabilitation"

Page 4, after line 3, insert:

"SECTION 4. ROUGHRIDER INDUSTRIES' OPERATING FUND - BANK OF NORTH DAKOTA. Roughrider industries may establish its own operating fund in the Bank of North Dakota. Interest earned on the roughrider industries' operating fund shall be deposited in the state general fund. Roughrider industries may use its own manufacturing accounting system and must report annually its revenues and expenditures to the office of management and budget for the purpose of its financial statements being included in the state's comprehensive audited financial statements.

SECTION 5. EMERGENCY. The capital improvements line in subdivision 4 of section 1 of this Act is declared to be an emergency measure."

Renumber accordingly

#### STATEMENT OF PURPOSE OF AMENDMENT:

##### DEPARTMENT 533 - STATE INDUSTRIAL SCHOOL

Estimated income is reduced by \$100,000 and the general fund is correspondingly increased by \$100,000 to replace vocational education funds that will no longer be available to the school. The Senate had reduced estimated income by \$139,326 and increased the general fund by \$139,326.

##### DEPARTMENT 524 - STATE PENITENTIARY

The capital improvements line item is increased by \$1,895,000 from the general fund for the following projects at the State Penitentiary and State Farm:

|                                   |                  |
|-----------------------------------|------------------|
| Domestic hot water                | \$ 60,000        |
| Electrical outlets in cell houses | 85,000           |
| New facilities at State Farm      | <u>1,750,000</u> |
| Total                             | \$1,895,000      |

The House had deleted the funding for these projects from the Governor's budget. The \$1,750,000 provides funding for a dorm and delays funding for a gymnasium. The Senate provided \$2,150,000 for the facilities.

An emergency clause is added to allow the State Farm construction project to be started prior to July 1, 1991.

The Senate reduced estimated income by \$37,846 and increased the general fund correspondingly by \$37,846 to replace unavailable vocational education funds. The conference committee amendments do not provide the funding from the general fund but keep the appropriation authority in the bill.

A line item of \$175,000 from the general fund added by the House, for repairs and remodeling at the State Farm is deleted.

#### DEPARTMENT 535 - ROUGHRIDER INDUSTRIES

The amendment adds \$1,800,000 from other funds for the manufacturing of license plates for the 1991-93 biennium. The House deleted \$2,000,000 from the Governor's budget for this purpose.

Also, Roughrider Industries is authorized to establish an operating fund in the Bank of North Dakota and use its own manufacturing accounting system. Roughrider Industries must report its revenues and expenditures to OMB annually for the purpose of its financial statements being included in the state's comprehensive audited financial statements.

#### DEPARTMENT 536 - PAROLE AND PROBATION

No changes in funding are made to the engrossed bill. This purpose of amendment is to clarify the deletion of \$8,500 in salaries and wages and \$6,500 in operating expenses made by the House. Salaries and wages are reduced by \$8,500 and operating expenses by \$1,500 to delay the implementation of the Bismarck intensive supervision program for six months rather than for one year. The remaining \$5,000 reduction in operating expenses represents a cutback in general operating costs during the biennium.

In total, the amendments increase the general fund appropriation from the House version by \$1,820,000, decrease the general fund by \$477,172 from the Senate version, and decrease the general fund appropriation by \$574,900 from the Governor's budget.

THE HOUSE RECONVENED pursuant to recess taken, with Speaker R. Anderson presiding.

#### CONSIDERATION OF MESSAGE FROM THE SENATE

REP. KRETSCHMAR MOVED that the House do concur in the Senate amendments to Engrossed HB 1079, which motion prevailed.

HB 1079, as amended, was placed on the Eleventh order of business on the calendar.

#### SECOND READING OF HOUSE BILL

HB 1079: A BILL for an Act to amend and reenact subsection 10 of section 12.1-32-02, sections 12.1-32-02.1, 19-03.1-23, and 54-21-25 of the North Dakota Century Code, relating to sentencing alternatives, prison terms for certain offenders, penalties for unlawful manufacture, delivery, or possession of controlled substances, and authority to contract with other governmental agencies for prisoners and juvenile delinquents; to provide a penalty; to provide an appropriation; and to provide an effective date.

#### ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 80 YEAS, 22 NAYS, 0 EXCUSED, 4 ABSENT AND NOT VOTING.

YEAS: Aarsvold; Bateman; Belter; Berg, G.; Berg, R.; Bernstein; Bodine; Boehm; Brokaw; Brown; Byerly; Carlisle; Clayburgh; Cleary; Delzer; DeWitz; Dorso; Enget; Erickson; Freier; Gates; Gerntholz; Gilmore; Goffe; Gorder; Gorman; Grosz; Grumbo; Hanson; Hausauer; Henegar; Howard; Jensen; Kelsch; Kloubec; Kolbo; Kretschmar; Kroeber; Kunkel; Larson; Laughlin; Mahoney; Martin; Martinson; Miller; Muhs; Mutzenberger; Myrdal; Nelson; Nicholas; Nichols; Nowatzki; Oban;

Olsen, D.; Olson, A.; Porter; Price; Pyle; Rennerfeldt; Ritter; Rydell; Schimke; Schindler; Schmidt; Shide; Skjerven; Soukup; St. Aubyn; Svedjan; Thompson; Timm; Tollefson; Trautman; Urlacher; Wald; Wardner; Wentz; Wilkie; Williams; Speaker R. Anderson

NAYS: Anderson, B.; Boucher; Carlson; Coats; DeMers; Flaagan; Gabrielson; Hokana; Huether; Jacobson; Kaldor; Kerzman; Linderman; Peterson; Ring; Scherber; Schneider; Skar; Snyder; Starke; Stofferahn; Thorpe

ABSENT AND NOT VOTING: Dalrymple; Meyer; Payne; Whalen

Engrossed HB 1079 passed and the title was agreed to.

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#### REQUEST

REP. WILLIAMS REQUESTED that the record show that he intended to vote "NAY" on HB 1079, which request was granted.

#### MOTION

REP. KLOUBEC MOVED that the House be on the Seventh and Twelfth orders of business, and at the conclusion of those orders, stand in recess until 5:00 p.m., which motion prevailed.

MESSAGE to the SENATE from the HOUSE (Roy Gilbreath, Chief Clerk)

MR. PRESIDENT: The House has adopted the conference committee report on HB 1022.

MESSAGE to the SENATE from the HOUSE (Roy Gilbreath, Chief Clerk)

MR. PRESIDENT: The House has adopted the conference committee report on HB 1031 and HB 1200 and subsequently passed the same.

MESSAGE to the SENATE from the HOUSE (Roy Gilbreath, Chief Clerk)

MR. PRESIDENT: The House has adopted the conference committee report on SB 2039.

MESSAGE to the SENATE from the HOUSE (Roy Gilbreath, Chief Clerk)

MR. PRESIDENT: The House has adopted the conference committee report on SB 2507 and SB 2595 and subsequently passed the same.

MESSAGE to the SENATE from the HOUSE (Roy Gilbreath, Chief Clerk)

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

SB 2016: Reps. Myrdal; Wald; Nowatzki

MESSAGE to the HOUSE from the SENATE (Marion Houn, Secretary)

MR. SPEAKER: The Senate has adopted the conference committee report on SB 2005.

#### REPORTS OF CONFERENCE COMMITTEES

HB 1597: Your conference committee (Sens. Maxson, Graba, Nalewaja (refused to sign) and Reps. Kretschmar, DeWitz, Skjerven) recommends that the SENATE RECEDE from the Senate amendments on HJ pages 1421-1422, amend as follows, and then place on the Seventh order:

That the Senate recede from its amendments as printed on page 1152 of the Senate Journal and pages 1421 and 1422 of the House Journal, and that House Bill No. 1597 be amended as follows:

Page 1, line 1, after "reenact" insert "subsection 4 of section 53-06.1-03," replace the second "and" with a comma, and after "53-06.1-03.3" insert ", and 53-06.1-06"

Page 1, line 2, after "to" insert "the number of sites at which gaming may be conducted by certain organizations,"

Page 1, line 3, after "sites" insert ", and conduct of pull tabs by employees of certain alcoholic beverage establishments"

Page 1, after line 4, insert:

"SECTION 1. AMENDMENT. Subsection 4 of section 53-06.1-03 of the North Dakota Century Code is amended and reenacted as follows:

4. Games of chance may be operated or conducted only on premises or sites set forth in the application as follows:

- a. ~~Glass A license applicants are limited to one location. A special permit for an alternate location may be granted by the attorney general for a single specific occasion per licensing year upon written request.~~
- b. License applicants shall first secure approval of the proposed site or sites on which it intends to conduct games of chance under this chapter from the governing body of the city, if within city limits, or the county, if outside city limits, where the site or sites are located. This approval or permit, which may be granted at the discretion of the governing body, must accompany the license application to the attorney general. The governing body may charge a one hundred dollar fee for this permit.
- ~~c.~~ b. Rented premises are subject to rules adopted by the attorney general.
- ~~d.~~ c. Only one eligible organization at a time may be authorized to conduct games of chance at a specific location, except that a raffle drawing may be conducted for special occasions when one of the following conditions are met:
  - (1) When the area for the raffle drawing is physically separated from the area where gaming is conducted by the regular licensee.
  - (2) Upon request of the licensee, the license is suspended for that specific day by the attorney general.
- ~~e.~~ d. Licenses, rules of play, and state identification devices must be displayed on forms and in the manner specified in rules adopted by the attorney general."

Page 1, line 11, overstrike "fifty"

Page 1, line 20, replace "two" with "one" and after "hundred" insert "twenty-five"

Page 2, line 1, replace "three" with "two"

Page 2, line 2, after "fifty" insert "twenty-five"

Page 2, after line 2, insert:

"SECTION 4. AMENDMENT. Section 53-06.1-06 of the North Dakota Century Code is amended and reenacted as follows:

53-06.1-06. Persons permitted to conduct games of chance - Premises - Equipment - Compensation.

1. No person, except a member or employee of an eligible organization or a member of an organization auxiliary to an



eligible organization, may assist in the holding, operating, or conducting of any game of chance under this chapter. In the conduct of pull tabs, the attorney general may allow employees of licensed alcoholic beverage establishments to provide limited assistance to an authorized class B license holding eligible organization the adjusted gross proceeds of which do not exceed sixty thousand dollars per quarterly reporting period of operation or to any class A license holding eligible organization.

2. Except when authorized by the attorney general, no games of chance may be conducted with any gaming equipment other than gaming equipment owned by an eligible organization or rented at a reasonable rate by an eligible organization from a licensed distributor.
  3. The governing board of an eligible organization is primarily responsible for the proper determination and distribution of the entire net proceeds of any game of chance held in accordance with this chapter.
  4. The premises where any game of chance is being held, operated, or conducted, or where it is intended that such game will be held, must be open to inspection by the licensing authority, its agents and employees, by representatives of the governing body authorizing games of chance, and by peace officers of any political subdivision of this state.
  5. When any merchandise prize is awarded in a game of chance, its value is its current retail price.
  6. Equipment, prizes, and supplies for games of chance may not be purchased or sold at prices in excess of the usual price thereof.
  7. The entire net proceeds derived from the holding of games of chance must be devoted within three months from the date such proceeds were earned to the uses permitted by this chapter. Any organization desiring to hold the net proceeds of games of chance for a period longer than three months from the date such proceeds were earned must apply to the licensing authority or governing body, as the case may be, for special permission, and upon good cause shown, the licensing authority or governing body may grant the request.
  8. ~~Except at the temporary alternate site provided by subdivision a of subsection 3 of section 53-06, only the members of an organization licensed as a class A licensee by the attorney general under this chapter and their spouses and bona fide guests may participate in playing games of chance conducted by such licensed organization.~~
  - 9- No person convicted of a felony within the last two years, or determined by the attorney general to have participated in organized crime or unlawful gambling, may be permitted to sell or distribute equipment, or conduct or assist in games of chance under this chapter.
- ~~10-~~ 9. Any person involved with the conduct of games of chance must be:
- a. A person of good character, honesty, and integrity.
  - b. A person whose prior activities, criminal record, reputation, habits, and associations do not pose a threat to the public interest of this state or to the effective

regulation and control of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of gaming or the carrying on of the business and financial arrangements incidental to the conduct of gaming.

- ~~++~~ 10. The attorney general may prohibit a person from playing games of chance if the person violates any provision of this chapter or any rule adopted under this chapter."

Renumber accordingly

SB 2005, as engrossed: Your conference committee (Sens. Satrom, Lindaas, Goetz and Reps. Howard, Wentz, DeMers) recommends that the HOUSE RECEDE from the House amendments on HJ page 1540 and then place it on the Seventh order.

MESSAGE to the SENATE from the HOUSE (Roy Gilbreath, Chief Clerk)

MR. PRESIDENT: The House has concurred in the Senate amendments to HB 1079 and subsequently passed the same.

MESSAGE to the SENATE from the HOUSE (Roy Gilbreath, Chief Clerk)

MR. PRESIDENT: The Speaker has signed and your signature is respectfully requested on: HB 1048, HB 1383.

THE HOUSE RECONVENED pursuant to recess taken, with Speaker R. Anderson presiding.

#### REPORT OF CONFERENCE COMMITTEE

HB 1517: Your conference committee (Sens. Maxson, Traynor, Stenehjem and Reps. Kretschmar, Clayburgh, Skar) recommends that the HOUSE ACCEDE to the Senate amendments on HJ pages 1469-1470, further amend as follows, and then place on the Seventh order:

That the House accede to the Senate amendments as printed on pages 1469 and 1470 of the House Journal and page 1295 of the Senate Journal, and that House Bill No. 1517 be further amended as follows:

Page 1, line 1, after "Act" insert "to establish a single trial court of general jurisdiction through the abolition of county courts and the provision for additional district court judgeships; to create and enact two new sections to chapter 27-05 of the North Dakota Century Code, relating to vacancies in the office of district court judge and the appointment of magistrates;"

Page 1, line 7, after the sixth comma insert "11-21-01,"

Page 1, line 10, after "sections" insert "12.1-20-16,"

Page 1, line 14, after the first comma insert "23-07.1-09,"

Page 1, line 16, replace "sections" with "section" and after the second comma insert "subsection 2 of section 25-03.1-21, sections"

Page 1, line 19, after the second comma insert "sections 27-05-01, 27-05-06, subsection 1 of section 27-05-08, sections 27-06-01, 27-07.1-02, 27-07.1-03,"

Page 1, line 22, after "sections" insert "27-23-02,"

Page 2, line 1, after the fourth comma insert "29-07-01.1,"

Page 2, line 2, after the third comma insert "section 29-22-02,"

Page 2, line 3, replace the second "section" with "sections 30.1-02-02,"

Page 2, line 12, after "sections" insert "40-18-06.2," and after the second comma insert "40-18-15.1, 40-18-19,"

Page 2, line 18, after the third comma insert "58-02-23,"

Page 2, line 23, remove the first "and", after "judges" insert ", multicounty agreements to share county judge services, vacancies in the office of county court judge, and abolition of the office of municipal judge if municipal cases are transferred to county or district court", and after the semicolon insert "to repeal sections 11-09-22, 11-09-23, 11-11-12, 11-15-10, 24-07-25, 27-01-04, 27-01-05, chapters 27-07.1, 27-08.2, sections 27-09.1-21, 27-20-04, chapter 27-26, and section 31-09-07 of the North Dakota Century Code, relating to references to county courts and county court judges,"

Page 2, line 24, remove "and" and after "date" insert "; to provide an expiration date; and to provide a statement of legislative intent"

Page 2, after line 25, insert:

"SECTION 1. County courts abolished - Election of additional district court judges - Case file transition - Budget and property considerations.

1. Following the completion on January 1, 1995, of the terms of the judges of all county courts, the county court and office of judge of the county court in each county are abolished.
2. District court judgeships are established on January 2, 1995, in number equal to the number of county judges serving the county courts on January 1, 1991, or the number of county judges serving the county courts on January 1, 1994, whichever is the lesser number. The district court judgeships established pursuant to this subsection must be filled by election at the general election in 1994. All statutes relating to the district court apply to the district court judgeships established pursuant to this subsection, except as otherwise provided by this section.
3. The supreme court shall designate by rule, prior to January 1, 1994, the judicial district for each additional district court judgeship established pursuant to subsection 2. The judicial district designated by the supreme court for each district court judgeship established pursuant to subsection 2 is the area of election for that office at the general election in 1994. The supreme court shall designate, prior to January 1, 1994, staggered terms for each district court judgeship established pursuant to subsection 2 in a manner that results in approximately one-third of those offices with initial terms of two years, one-third with initial terms of four years, and one-third with initial terms of six years. Any judge elected pursuant to subsection 2 shall take office on January 2, 1995, and shall hold office until completion of the designated initial term or until a successor is elected and has qualified. Subsequent to these initial terms, a judge elected to a judgeship established by subsection 2 shall hold office for the term provided in section 27-05-02.
4. All case files, untried cases, or any other unfinished business of each county court abolished pursuant to subsection 1 must be considered case files, untried cases, and other unfinished business of the district court of the judicial district in which that county is located.
5. Beginning in 1992, the budget for the district courts submitted to the legislative assembly pursuant to section

27-01-01.1 and to the director of the budget for informational purposes pursuant to section 54-44.1-13 must include all salaries and expenses for the district court judgeships established pursuant to subsection 2. Any equipment, furnishings, and law libraries in the control and custody of the county courts on January 1, 1991, and any property acquired by county courts from that date until January 1, 1995, must be transferred on January 2, 1995, to the custody and control of the district court of the county in which each county court is located until the state court administrator determines that these items are no longer needed by the district court. Upon that determination, custody and control of the property must revert to the county."

Page 19, after line 7, insert:

"SECTION 28. AMENDMENT. Section 11-21-01 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

11-21-01. Public administrator - Appointment - Term of office. The county court of each presiding judge of the judicial district in which a county is located may, after consultation with the judges of the judicial district, appoint a public administrator for that county. A public administrator may be a corporation. The initial appointments under this section may be made upon completion of the terms of public administrators elected in 1984. The public administrator shall hold office for four years and until a successor is appointed and qualified. Two or more county courts The presiding judge may appoint a single public administrator to serve their respective counties more than one county within the district court's jurisdiction."

Page 24, after line 3, insert:

"SECTION 42. AMENDMENT. Section 12.1-20-16 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

12.1-20-16. Appointment of a guardian ad litem in prosecution for sex offenses. A minor who is a material or prosecuting witness in a criminal proceeding involving an act in violation of sections 12.1-20-01 through 12.1-20-08, or section 12.1-20-11 may, at the discretion of the district court, have the witness' interests represented by a guardian ad litem at all stages of the proceedings arising from the violation. The appointment may be made upon the order of the court on its own motion or at the request of a party to the action. The guardian ad litem may, but need not, be a licensed attorney and must be designated by the court after due consideration is given to the desires and needs of the child. A person who is also a material witness or prosecuting witness in the same proceeding may not be designated guardian ad litem. The guardian ad litem shall receive notice of and may attend all depositions, hearings, and trial proceedings to support the child and advocate for the protection of the child but may not separately introduce evidence or directly examine or cross-examine witnesses. The expenses of the guardian ad litem, when approved by the judge, must be paid by the county wherein the alleged offense took place if the action is prosecuted in county court, and by the state if the action is prosecuted in district court. The state shall also pay the expenses of the guardian ad litem in commitment proceedings held in county district court pursuant to subsection 7 of section 27-07.1-17 chapter 25-03.1."

Page 36, after line 17, insert:

"SECTION 61. AMENDMENT. Section 23-07.1-09 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

23-07.1-09. Appeal to district supreme court - Habeas corpus - Hearing. An appeal from an order of the judge of a county district court authorizing a specified medical facility to receive a person for care, treatment, quarantine, and isolation may be taken to the district supreme court of the county. In such a proceeding, the state's attorney of the county wherein the appeal is taken, without additional compensation, shall represent the state health officer. The clerk of the district court of the county in from which the appeal is taken shall notify the state's attorney of the filing of such appeal. The hearing appeal shall be limited to a review of the procedures, findings, and conclusions of the lower court. All persons placed in the custody of the state health officer under the provisions of this chapter for care, treatment, quarantine, and isolation shall be entitled to the benefit of the writ of habeas corpus and a determination as to whether a person in such custody has active, infectious tuberculosis in a communicable and contagious stage and is dangerous to public health shall be made at the hearing. If the court shall decide that the person does have active, infectious tuberculosis and is dangerous to public health, such decision shall not preclude a subsequent application for a writ or the issuing of a writ upon a subsequent application, if it shall be alleged that such person shall have been restored to health."

Page 43, after line 12, insert:

"SECTION 73. AMENDMENT. Subsection 2 of section 25-03.1-21 of the North Dakota Century Code is amended and reenacted as follows:

2. If the respondent is not complying with the alternative treatment order or the alternative treatment has not been sufficient to prevent harm or injuries that the individual may be inflicting upon himself or others, the department, a representative of the treatment program involved in the alternative treatment order, the petitioner's retained attorney, or the state's attorney may apply to the court or to the county district court of the a different county judicial district in which the respondent is located to modify the alternative treatment order. The court shall hold a hearing within seven days after the application is filed. Based upon the evidence presented at hearing and other available information, the court may:
  - a. Continue the alternative treatment order;
  - b. Consider other alternatives to hospitalization, modify the court's original order, and direct the individual to undergo another program of alternative treatment for the remainder of the ninety-day period; or
  - c. Enter a new order directing that the individual be hospitalized until discharged from the hospital under section 25-03.1-30. If the individual refuses to comply with this hospitalization order, the court may direct a peace officer to take the individual into protective custody and transport the respondent to a treatment facility."

Page 49, after line 3, insert:

"SECTION 83. AMENDMENT. Section 27-05-01 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

27-05-01. Judicial districts - Number of judges.

1. The judicial districts in this state are as designated by rule of the supreme court. The number of judges in each of the judicial districts is as follows:

- ~~1- a.~~ The northwest judicial district shall have five judges.
- ~~2- b.~~ The northeast judicial district shall have three judges.
- ~~3- c.~~ The northeast central judicial district shall have four judges.
- ~~4- d.~~ The east central judicial district shall have four judges.
- ~~5- e.~~ The southeast judicial district shall have three judges.
- ~~6- f.~~ The south central judicial district shall have five judges.
- ~~7- g.~~ The southwest judicial district shall have three judges.
- 2. Each judicial district has that number of additional judges as designated by rule of the supreme court pursuant to subsection 3 of section 1 of this Act. The supreme court shall reduce the number of district judges pursuant to section 86 to forty-two before January 2, 2001.

SECTION 84. AMENDMENT. Section 27-05-06 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

27-05-06. Jurisdiction of district courts. The district courts of this state have the general jurisdiction conferred upon them by the constitution, and in the exercise of such jurisdiction they have power to issue all writs, process, and commissions provided therein or by law or which may be necessary for the due execution of the powers with which they are vested. Such courts shall have:

- 1. Common-law jurisdiction and authority within their respective judicial districts for the redress of all wrongs committed against the laws of this state affecting persons or property.
- 2. Power to hear and determine all civil actions and proceedings.
- 3. All the powers, according to the usages of courts of law and equity, necessary to the full and complete jurisdiction of the causes and parties and the full and complete administration of justice, and to carrying into effect their judgments, orders, and other determinations, subject to a reexamination by the supreme court as provided by law.
- 4. Jurisdiction of appeals from all final judgments of municipal judges and from the determinations of inferior officers, boards, or tribunals, in such cases and pursuant to such regulations as may be prescribed by law.
- 5. ~~Jurisdiction over actions by game and fish officials involving the confiscation of materials determined to be in excess of one thousand dollars in value.~~

SECTION 85. AMENDMENT. Subsection 1 of section 27-05-08 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

- 1. The locations of the chambers of the district judges in each of the respective districts shall be as determined by rule of the supreme court. However, not more than seventy percent of the chambers of the district judges may be located in cities with a population of more than seven thousand five hundred.

SECTION 86. A new section to chapter 27-05 of the North Dakota Century Code is created and enacted as follows:

Vacancy in office of district judge - Abolition of offices - Hearing.

1. Notwithstanding section 44-02-03, when a vacancy occurs in the office of district court judge, the supreme court shall determine, within ninety days of receiving notice of the vacancy from the governor and in consultation with district court judges and attorneys in the affected judicial district, whether or not that office is necessary for effective judicial administration. The supreme court may, consistent with that determination, order that:
  - a. The vacancy be filled in the manner provided pursuant to chapter 27-25;
  - b. The vacant office be abolished; or
  - c. The vacant office be transferred to a judicial district in which an additional judge is necessary for effective judicial administration, and that the vacancy be filled in the manner provided pursuant to chapter 27-25 with respect to that judicial district.
2. Subject to subsection 3, the supreme court may, after consultation with district court judges and attorneys in the affected judicial district, abolish one or more offices of district court judge if the supreme court determines that the office is not necessary for effective judicial administration and abolition of the office is necessary to reduce the number of district court judges as required in subsection 2 of section 27-05-01. At least one year before the end of the term of office of a district court judge holding the judgeship, the supreme court shall notify the judges of the affected judicial district of a determination that the judgeship will be abolished. The abolition of an office of district court judge under this subsection is effective at the end of the term of office of the district court judge holding that judgeship. The district court judge holding the judgeship to be abolished may petition the supreme court, within thirty days after receiving notice that the judgeship will be abolished, for a hearing on the determination. The supreme court shall hold the hearing within thirty days after receipt of the petition. Within thirty days after the hearing, the supreme court shall affirm, reverse, or modify its previous determination.
3. The authority conferred upon the supreme court in subsection 2 may be exercised:
  - a. From July 1, 1995, until June 30, 1997, if on July 1, 1995, the number of district court judges is more than forty-eight;
  - b. From July 1, 1997, until June 30, 1999, if on July 1, 1997, the number of district court judges is more than forty-six; and
  - c. From July 1, 1999, until December 31, 2000, if on July 1, 1999, the number of district court judges is more than forty-four.
4. The supreme court shall notify the governor of its determinations made pursuant to this section.

SECTION 87. A new section to chapter 27-05 of the North Dakota Century Code is created and enacted as follows:

Magistrates - Appointment - Salary - Authority. The presiding judge of a judicial district may appoint, subject to rules adopted by the supreme court, any qualified person, including a clerk of the district court, to serve as magistrate. A magistrate appointed pursuant to this section may be paid a salary as determined by the supreme court and has that authority performable by a district court judge as assigned by the presiding judge. The supreme court may adopt rules for the qualifications of magistrates, the extent and assignment of authority, and the conduct of the office, including rules relating to training sessions and continuing education.

SECTION 88. AMENDMENT. Section 27-06-01 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

27-06-01. District court reporter - Appointment, oath, substitutes, qualifications.

1. Each district judge shall appoint a qualified shorthand reporter to the office of court reporter. The provide for court reporter services, unless otherwise provided by rules of the supreme court, either by the appointment of a qualified shorthand reporter to the office of court reporter or by an electronic court reporting system.
2. If a reporter is appointed, the order of appointment must be filed in the office of the clerk and entered upon the records of the court in each county of the district. The person so appointed shall take and subscribe the oath required of other civil officers and shall file the same in the office of the secretary of state. The reporter shall hold office and discharge the duties thereof in person. If the reporter shall be incapacitated from acting, the judge may appoint some other qualified shorthand reporter to act, whose notes, transcripts, and certificates shall have the same force and effect as though made by the official reporter, but the certificates made by the person must be under oath. A qualified shorthand reporter shall be a person who is the holder of a registered professional reporter certificate issued by the national shorthand reporters association or an official shorthand reporter appointed on or before July 1, 1979.

SECTION 89. AMENDMENT. Section 27-07.1-02 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

27-07.1-02. Multicounty agreements to share services of judges. The boards of county commissioners of any two or more counties may enter into an agreement to provide for the election of a single judge or any number of judges to serve the county courts of the several counties entering into the agreement. Any county entering into such an agreement shall retain its own county court which shall be located in the county seat and each action shall be venued in the county court of any county in which venue is proper under other provisions of law or rule of the supreme court. The agreement shall set forth the number of judges to be elected, the manner in which the salary and expenses of the judge or judges and any court reporters will be divided by the various counties, and the manner in which services will be provided to the various counties. Any such agreement must be entered into at least one hundred twenty days prior to the primary election in any year in which a general election is to be held, except a county in which no candidate is elected and qualified or in which a vacancy occurs may enter into an agreement with another county for the services of a judge at any time. Any agreement must remain effective for the duration of



the term to which the county judge is to be elected, or, in the event of a vacancy which occurs after the agreement is entered into, until the vacancy is filled by election and the person elected takes office or the counties enter into an agreement for the provision of judicial services pursuant to subsection 4 of section 27-07.1-03. The candidates nominated or candidates elected as county judge shall be determined in both the primary and general elections by using the total combined votes in those counties which have entered into a multicounty agreement for judicial services. The candidate elected as judge of the county court in those counties which have agreed to share the services of a county judge is exempt from the requirement of section 11-10-04, but must be a resident of this state at the time of nomination. Any agreement or change to any agreement made under this section is subject to the prior approval of the supreme court.

SECTION 90. AMENDMENT. Section 27-07.1-03 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

27-07.1-03. Vacancies. ~~Any~~

1. Except as provided in subsection 2, any vacancy in the office of county judge shall be filled by the board of county commissioners pursuant to chapter 27-26, unless the board, by resolution, determines to fill the vacancy in accordance with section 44-02-04.
2. When a vacancy occurs in the office of county court judge, the supreme court shall determine, within ninety days of receiving notice of the vacancy from the board of county commissioners, whether or not that office is necessary for effective judicial administration. The supreme court's determination must be made in consultation with the board of county commissioners, judges, and attorneys of each affected county. The supreme court may, consistent with its determination, order that:
  - a. The vacancy be filled, at the discretion of the county, in either the manner provided pursuant to chapter 27-26 or through an agreement described in subdivision a or b of subsection 4; or
  - b. The vacant office be abolished and that county court services be provided pursuant to subsection 4.
3. The supreme court shall notify the board of county commissioners of each affected county of its determination made pursuant to subsection 2.
4. If the supreme court orders that a vacant office be abolished pursuant to subsection 2, the board of county commissioners of each affected county shall:
  - a. Enter into an agreement with the supreme court for the provision of judicial services by the state judicial system until such time as the county courts are abolished and additional district court judgeships are established pursuant to section 1 of this Act; or
  - b. Enter into an agreement with a county that has an office of county court judge for the provision of county court services, notwithstanding the limitations imposed by section 27-07.1-02. Any county entering into such an agreement shall have a county court which must be located in the county seat and each action must be venued in the county in which venue is proper under other provisions of law or rule of the supreme court. The agreement must set

forth the manner in which the salary and expenses of the judges and any court reporters will be divided by the counties, and the manner in which services will be provided to each county. The agreement may remain effective until such time as the county courts are abolished and additional district court judgeships are established pursuant to section 1 of this Act."

Page 52, after line 27, insert:

"SECTION 100. AMENDMENT. Section 27-23-02 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

27-23-02. Creation and composition of commission, terms of office, appointment, and powers. The commission on judicial conduct is hereby created to consist of ~~one judge two judges~~ of the district court, ~~one judge of the county court~~, one lawyer who is licensed to practice law in this state, and four citizens who are not judges, retired judges, or lawyers. Members representing the district ~~and county courts court~~ shall be appointed by their ~~respective state associations association~~ and the lawyer member shall be appointed by the executive committee of the state bar association of North Dakota. The citizen members shall be appointed by the governor. The term of each member shall be three years. Initially, two members shall serve for three years, two members shall serve for two years, and three members shall serve for one year; as determined by lot. No member shall serve more than two full three-year terms. Membership terminates if a member ceases to hold the position that qualified him for appointment. A vacancy shall be filled by the appointing power for the remainder of the term. Any appointment to fill a vacancy not made within forty-five days after the vacancy occurs or the term of office ends shall be made by the supreme court. The commission shall select one of its members as chairman.

The commission has the power to investigate complaints against any judge in the state and to conduct hearings concerning the discipline, removal, or retirement of any judge."

Page 57, after line 2, insert:

"SECTION 110. AMENDMENT. Section 29-07-01.1 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

29-07-01.1. Payment of expenses for defense of indigents. Lawyers appointed to represent needy persons shall be compensated at a reasonable rate to be determined by the court. Expenses necessary for the adequate defense of a needy person, when approved by the judge, shall be paid by the county wherein the alleged offense took place ~~if the action is prosecuted in county court~~, by the state if the action is prosecuted in district court, and by the city wherein the alleged offense took place if the action is prosecuted in municipal court. ~~The state shall also pay the defense expenses in any felony action prosecuted in county court pursuant to subsection 9 of section 27-07-17.~~ The city shall also pay the expenses in any appeal taken to district court ~~or county court~~ from a judgment of conviction in municipal court pursuant to section 40-18-19. A defendant with appointed counsel shall reimburse the ~~county~~, state, or city such sums as the ~~county~~, state, or city expends on the defendant's behalf, unless otherwise ordered by the court. The state's attorney of the county or prosecuting attorney of the city wherein the alleged offense took place shall seek civil recovery of any such sums any time the state's attorney or city attorney determines the person for whom counsel was appointed may have funds to repay the ~~county~~, state, or city within six years of the date such amount was paid on that person's behalf. The state's attorney may contract with a private sector collection agency for assistance in seeking recovery of such funds."

Page 58, after line 27, insert:

"SECTION 114. AMENDMENT. Section 29-22-02 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

29-22-02. Custody of jurors. The jurors shall retire in charge of one or more officers who must be sworn to keep them together in some private and convenient place until they have rendered their verdict. Such officer or officers shall furnish food and other necessities to the jurors, ~~at the expense of the county for county court and at the expense of the state for district court,~~ as directed by the court, and shall not speak to nor communicate with such jurors or any of them nor permit any other person so to do except by order of the court. Men and women jurors may retire, when rest or sleep or propriety requires it, to separate rooms."

Page 59, after line 6, insert:

"SECTION 116. AMENDMENT. Section 30.1-02-02 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

30.1-02-02. (1-302) Subject matter jurisdiction.

- ~~1.~~ The ~~county district~~ court has jurisdiction over all subject matter relating to guardianship, probate, and testamentary matters, including:
  - ~~a. 1.~~ Estates of decedents, including construction of wills and determination of heirs and successors of decedents.
  - ~~b. 2.~~ Estates of protected persons.
  - ~~c. 3.~~ Protection of minors and incapacitated persons.
  - ~~d. 4.~~ Trusts, to the extent necessary for the exercise of the court's jurisdiction over probate and testamentary matters.
- ~~2.~~ The district and county courts have concurrent subject matter jurisdiction over trusts; except as provided in subdivision d of subsection ~~1~~. The district court has jurisdiction of all causes at law and equity not inconsistent with the exclusive original jurisdiction over probate and testamentary matters vested by subsection ~~1~~ in the county court."

Page 81, after line 6, insert:

"SECTION 156. AMENDMENT. Section 40-18-06.2 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

40-18-06.2. Transfer of municipal ordinance cases to county court - Abolition of office of municipal judge. With the agreement of the governing body of the county, or the counties of the multicounty agreement area pursuant to section 27-07.1-02, the governing body of a city may, by ordinance, transfer some or all of the cases of the municipal court to the county court of the county in which the city is located. These cases are deemed county court cases for purposes of appeal. The governing body of a city with a population of less than five thousand, upon transferring all municipal court cases to the county, may abolish, by resolution, the office of municipal judge. The term of office of the municipal judge elected to serve that city terminates upon the date the governing body of the city abolishes the office of municipal judge.

SECTION 157. AMENDMENT. Section 40-18-06.2 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

40-18-06.2. Transfer of municipal ordinance cases to county district court - Abolition of office of municipal judge. With the agreement of the governing body of the county, or the counties of the multicounty agreement area pursuant to section 27-07-1-02 the presiding judge of the judicial district in which the city is located, and the state court administrator, the governing body of a city may, by ordinance, transfer some or all of the cases of the municipal court to the county district court of serving the county in which the city is located. These cases are deemed county district court cases for purposes of appeal. The governing body of a city with a population of less than five thousand, upon transferring all municipal court cases to the district court, may abolish, by resolution, the office of municipal judge. The term of office of the municipal judge elected to serve that city terminates upon the date the governing body of the city abolishes the office of municipal judge."

Page 81, after line 17, insert:

"SECTION 159. AMENDMENT. Section 40-18-15.1 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

40-18-15.1. Transfer to county district court if jury trial not waived - Expenses of prosecution - Division of funds between city and, county, and state. If within twenty-eight days after arraignment a defendant has not waived in writing the defendant's right to a jury trial in a case where it otherwise exists, the matter must be transferred to the county district court for trial. The city shall provide a prosecuting attorney and, in the case of any indigent defendant, a defense attorney. The city may contract with the county, state, or any individual or entity for prosecution or defense services. In the contract, the city and the county, and state may agree by resolutions of the respective governing bodies, to a division of all fees, fines, costs, forfeitures, and any other monetary consideration collected from cases transferred under this section- The share of fees, fines, costs, forfeitures, and any other monetary consideration due to the city, which must be paid to the city and county treasury at least once each quarter, while the share due to the county must be paid to the county general fund at least once each quarter. At the time of payment, the county district court shall account under oath to the city auditor and county for all money collected.

SECTION 160. AMENDMENT. Section 40-18-19 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

40-18-19. Appeals from determinations of municipal judge. An appeal may be taken to the county district court from a judgment of conviction or order deferring imposition of sentence in a municipal court in accordance with the North Dakota Rules of Criminal Procedure. An appeal is perfected by notice of appeal. A perfected appeal to the county district court transfers the action to such county district court for trial anew. On all appeals from a determination in a municipal court, the appellate district court shall take judicial notice of all of the ordinances of the city. No filing fee may be required in county district court for the filing of an appeal from a judgment of conviction for the violation of a municipal ordinance. Expenses necessary for the adequate defense of a needy person in an appeal to district or county court from a judgment of conviction for the violation of a municipal ordinance, as approved by the presiding district or county judge, must be paid by the city wherein the alleged offense took place."

Page 93, after line 16, insert:

"SECTION 185. AMENDMENT. Section 58-02-23 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

58-02-23. Division of assets and liabilities of the original township. Within thirty days after the first election is held in a civil township established upon a petition described in section 58-02-21, the board of county commissioners, the county auditor, and ~~the county a district judge designated by the presiding judge of the judicial district in which the new township is located~~ shall meet as a board of arbitrators and shall determine a just and fair distribution of the property and apportionment of the debts of the original township between it and the township separated therefrom and established as a civil township. The new township shall succeed to a proportional share of the moneys and other property of the original township and shall assume a proportional share of the debts and liabilities thereof existing at the time of the division, such proportion to be determined by the relative valuation of the property of the respective parts as shown by the last preceding assessment. The board of arbitrators, upon subpoena issued by the clerk of the district court on the request of such board, may bring before it all necessary witnesses, books, and papers. The determination of the board of arbitrators may be reviewed by the district court on appeal in accordance with the procedure provided in section 28-34-01, and shall be enforced by the courts."

Page 99, after line 29, insert:

"SECTION 203. REPEAL. Sections 11-09-22, 11-09-23, 11-11-12, and 11-15-10 of the North Dakota Century Code, and sections 24-07-25, 27-01-04, 27-01-05, chapters 27-07.1 and 27-08.2, sections 27-09.1-21 and 27-20-04, chapter 27-26, and section 31-09-07 of the 1989 Supplement to the North Dakota Century Code are repealed."

Page 100, line 1, replace "This" with "Sections 2 through 82, 84, 85, 87, 88, 91 through 155, and 157 through 203 of this" and replace "becomes" with "become"

Page 100, after line 2, insert:

"SECTION 205. EXPIRATION DATE. Section 156 of this Act is effective through January 1, 1995, and after that date is ineffective.

SECTION 206. LEGISLATIVE INTENT. The legislative assembly recognizes that this Act to implement article VI, section 1, of the Constitution of North Dakota, while it makes no present statutory change in the current distribution of court revenue, will result in the transfer of responsibility for certain court expenditures beginning January 2, 1995, from the counties to the state, including judicial compensation expenditures associated with the transition from county court judgeships to district court judgeships. The counties will remain responsible for all county court services until January 1, 1995, and thereafter will remain responsible for all other substantial court expenditures, including costs associated with the provision of courthouse facilities and the office and staff of clerk of district court in each county.

The legislative assembly also recognizes that the present allocation of court revenue will change substantially, without the need for statutory revision, due to anticipated changes in judicial practices associated with the imposition of fines and the assessment of court costs, thereby subjecting counties to diminished court revenues and the state to increased fine revenues to the common schools trust fund. Although it is difficult to assess the precise fiscal impact of the transition from county court judgeships to district court judgeships, the legislative assembly recognizes that the required reduction in the present number of judges under this Act will result in a substantial cost savings to all taxpayers of North Dakota through the

judicial reductions that will occur, regardless of whether the court expenditures are borne by the counties or the state.

Therefore, it is the intent of the legislative assembly that the interim legislative council committee assigned to review and monitor the implementation of this Act pursuant to Senate Concurrent Resolution No. 4043, as approved by the fifty-second legislative assembly, in conjunction with the office of the state court administrator, perform a detailed analysis of the fiscal implications of this Act prior to the convening of the fifty-third legislative assembly and the fifty-fourth legislative assembly. It is the intent of the legislative assembly that the transition to a single trial court of general jurisdiction include revision of the distribution of court revenues and legislative appropriations from the state general fund to provide a fair and equitable allocation of expenditures between the counties and the state."

Renumber accordingly

MESSAGE to the HOUSE from the SENATE (Marion Houn, Secretary)

MR. SPEAKER: The Senate has dissolved its conference committee on SB 2596 and has appointed a new committee to act with a like committee from the House on:

SB 2596: Sens. Mushik; Wogsland; Thane

MESSAGE to the HOUSE from the SENATE (Marion Houn, Secretary)

MR. SPEAKER: The Senate has adopted the conference committee report on HB 1002, HB 1014, HB 1020, and HB 1378 and subsequently passed the same.

MESSAGE to the HOUSE from the SENATE (Marion Houn, Secretary)

MR. SPEAKER: The President has signed and your signature is respectfully requested on: SB 2010, SB 2034, SB 2036, SB 2090, SB 2113, SB 2115, SB 2149, SB 2151, SB 2205, SB 2206, SB 2231, SB 2335, SB 2385, SB 2542, SB 2572, SB 2591, SCR 4058.

#### REPORT OF CONFERENCE COMMITTEE

REP. DALRYMPLE MOVED that the conference committee report on Engrossed HB 1018 be adopted, which motion prevailed.

Engrossed HB 1018, as amended, was placed on the Eleventh order of business on the calendar.

#### SECOND READING OF HOUSE BILL

HB 1018: A BILL for an Act making an appropriation for defraying the expenses of the children's services coordinating committee.

#### ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 103 YEAS, 1 NAY, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

YEAS: Aarsvold; Anderson, B.; Bateman; Belter; Berg, G.; Berg, R.; Bernstein; Bodine; Boehm; Boucher; Brokaw; Brown; Byerly; Carlisle; Carlson; Clayburgh; Cleary; Coats; Dalrymple; Delzer; DeMers; DeWitz; Dorso; Enget; Erickson; Flaagan; Freier; Gabrielson; Gates; Gerntholz; Gilmore; Goffe; Gorder; Gorman; Grosz; Grumbo; Hanson; Hausauer; Henegar; Hokana; Howard; Huether; Jacobson; Jensen; Kaldon; Kelsch; Kerzman; Kloubec; Kolbo; Kretschmar; Kroeber; Kunkel; Larson; Laughlin; Linderman; Mahoney; Martin; Martinson; Meyer; Miller; Muhs; Mutzenberger; Myrdal; Nelson; Nicholas; Nichols; Nowatzki; Oban; Olson, A.; Peterson; Porter; Price; Pyle; Rennerfeldt; Ring; Ritter; Rydell; Scherber; Schindler; Schmidt; Schneider; Shide; Skar; Skjerven; Snyder; Soukup; St. Aubyn; Starke; Stofferahn; Svedjan; Thompson; Thorpe; Timm; Tollefson; Trautman; Urlacher; Wald; Wardner; Wentz; Whalen; Wilkie; Williams; Speaker R. Anderson

NAYS: Schimke

ABSENT AND NOT VOTING: Olsen, D.; Payne

Engrossed HB 1018 passed and the title was agreed to.

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#### REPORT OF CONFERENCE COMMITTEE

REP. DALRYMPLE MOVED that the conference committee report on Engrossed HB 1021 be adopted, which motion prevailed on a verification vote.

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

#### SECOND READING OF HOUSE BILL

HB 1021: A BILL for an Act making an appropriation for defraying the expenses of the department of corrections and rehabilitation; providing for an appropriation from the North Dakota state penitentiary land fund; and to declare an emergency.

#### ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 92 YEAS, 13 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Aarsvold; Anderson, B.; Bateman; Belter; Berg, G.; Berg, R.; Bernstein; Bodine; Boucher; Brokaw; Byerly; Carlisle; Carlson; Clayburgh; Cleary; Coats; Dalrymple; DeMers; DeWitz; Dorso; Enget; Erickson; Flaagan; Freier; Gabrielson; Gates; Gerntholz; Gilmore; Goffe; Gorman; Grumbo; Hanson; Hausauer; Henegar; Hokana; Huether; Jacobson; Jensen; Kaldor; Kelsch; Kerzman; Kloubec; Kolbo; Kretschmar; Kroeber; Kunkel; Larson; Laughlin; Linderman; Mahoney; Martin; Martinson; Meyer; Miller; Muhs; Mutzenberger; Nelson; Nicholas; Nichols; Nowatzki; Oban; Olsen, D.; Peterson; Porter; Price; Pyle; Rennerfeldt; Ring; Ritter; Rydell; Scherber; Schmidt; Schneider; Skar; Skjerven; Snyder; Soukup; St. Aubyn; Starke; Stofferahn; Svedjan; Thompson; Thorpe; Timm; Tollefson; Urlacher; Wald; Wardner; Wentz; Wilkie; Williams; Speaker R. Anderson

NAYS: Boehm; Brown; Delzer; Gorder; Grosz; Howard; Myrdal; Olson, A.; Schimke; Schindler; Shide; Trautman; Whalen

ABSENT AND NOT VOTING: Payne

Engrossed HB 1021 passed, the title was agreed to, and the emergency clause was declared carried.

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#### REPORT OF CONFERENCE COMMITTEE

REP. KRETCHMAR MOVED that the conference committee report on HB 1597 be adopted, which motion prevailed on a verification vote.

#### REQUEST

REP. CLAYBURGH REQUESTED that the Speaker rule as to whether the amendments to HB 1597 were germane, which request was granted.

#### RULING BY THE SPEAKER

SPEAKER R. ANDERSON RULED that the amendments to HB 1597 were germane.

HB 1597, as amended, was placed on the Eleventh order of business on the calendar.

#### SECOND READING OF HOUSE BILL

HB 1597: A BILL for an Act to amend and reenact subsection 4 of section 53-06.1-03, sections 53-06.1-03.2, 53-06.1-03.3, and 53-06.1-06 of the

North Dakota Century Code, relating to the number of sites at which gaming may be conducted by certain organizations, rent limits for twenty-one and charitable gaming ticket sites, and conduct of pull tabs by employees of certain alcoholic beverage establishments.

#### ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 65 YEAS, 40 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Bateman; Berg, G.; Berg, R.; Bodine; Brown; Byerly; Carlisle; Coats; Dalrymple; DeMers; DeWitz; Dorso; Enget; Erickson; Flaagan; Freier; Gabrielson; Gates; Gilmore; Goffe; Gorman; Grumbo; Hanson; Hausauer; Henegar; Hokana; Huether; Jacobson; Jensen; Kelsch; Kloubec; Kolbo; Kretschmar; Kroeber; Kunkel; Mahoney; Martinson; Meyer; Miller; Muhs; Mutzenberger; Nelson; Nicholas; Nichols; Nowatzki; Oban; Peterson; Porter; Price; Pyle; Rennerfeldt; Schneider; Skar; Snyder; St. Aubyn; Starke; Stofferahn; Svedjan; Thompson; Tollefson; Trautman; Wald; Wardner; Whalen; Williams

NAYS: Aarsvold; Anderson, B.; Belter; Bernstein; Boehm; Boucher; Brokaw; Carlson; Clayburgh; Cleary; Delzer; Gerntholz; Gorder; Grosz; Howard; Kaldor; Kerzman; Larson; Laughlin; Linderman; Martin; Myrdal; Olsen, D.; Olson, A.; Ring; Ritter; Rydell; Scherber; Schimke; Schindler; Schmidt; Shide; Skjerven; Soukup; Thorpe; Timm; Urlacher; Wentz; Wilkie; Speaker R. Anderson

ABSENT AND NOT VOTING: Payne

HB 1597 passed and the title was agreed to.

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#### REPORT OF CONFERENCE COMMITTEE

REP. HOWARD MOVED that the conference committee report on Engrossed SB 2005 be adopted.

#### REQUEST

REP. OBAN REQUESTED a recorded roll call vote on the motion to adopt the conference committee report on SB 2005, which request was granted.

#### ROLL CALL

The question being on the motion to adopt the conference committee report on Engrossed SB 2005, the roll was called and there were 49 YEAS, 56 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Berg, R.; Boehm; Brokaw; Carlson; DeMers; DeWitz; Flaagan; Freier; Gates; Gerntholz; Gorder; Grosz; Grumbo; Hausauer; Hokana; Howard; Huether; Jacobson; Kaldor; Kloubec; Kretschmar; Larson; Laughlin; Linderman; Miller; Muhs; Myrdal; Nelson; Nicholas; Nowatzki; Price; Rennerfeldt; Ring; Scherber; Schimke; Schindler; Schmidt; Schneider; Shide; Skar; Stofferahn; Thompson; Timm; Tollefson; Wald; Wentz; Whalen; Wilkie; Speaker R. Anderson

NAYS: Aarsvold; Anderson, B.; Bateman; Belter; Berg, G.; Bernstein; Bodine; Boucher; Brown; Byerly; Carlisle; Clayburgh; Cleary; Coats; Dalrymple; Delzer; Dorso; Enget; Erickson; Gabrielson; Gilmore; Goffe; Gorman; Hanson; Henegar; Jensen; Kelsch; Kerzman; Kolbo; Kroeber; Kunkel; Mahoney; Martin; Martinson; Meyer; Mutzenberger; Nichols; Oban; Olsen, D.; Olson, A.; Peterson; Porter; Pyle; Ritter; Rydell; Skjerven; Snyder; Soukup; St. Aubyn; Starke; Svedjan; Thorpe; Trautman; Urlacher; Wardner; Williams

ABSENT AND NOT VOTING: Payne

The motion to adopt the conference committee report on SB 2005 failed.



## ANNOUNCEMENT BY SPEAKER

SPEAKER R. ANDERSON ANNOUNCED that the Conference Committee on Engrossed SB 2005 was discharged, and the following were reappointed to a new Conference Committee on SB 2005: Reps. Howard, Wentz, and DeMers.

## REPORT OF CONFERENCE COMMITTEE

REP. KRETSCHMAR MOVED that the conference committee report on HB 1517 be adopted, which motion prevailed on a verification vote.

HB 1517, as amended, was placed on the Eleventh order of business on the calendar.

## SECOND READING OF HOUSE BILL

HB 1517: A BILL for an Act to establish a single trial court of general jurisdiction through the abolition of county courts and the provision for additional district court judgeships; to create and enact two new sections to chapter 27-05 of the North Dakota Century Code, relating to vacancies in the office of district court judge and the appointment of magistrates; to amend and reenact section 4-33-06, subsection 5 of section 6-05.1-05, sections 11-03-08, 11-05-16, subsection 2 of section 11-07-04, sections 11-08-06, 11-08-37, 11-09-29, subsection 3 of section 11-09.1-05, sections 11-10-02, 11-10-06, subsections 1 and 4 of section 11-10-10, sections 11-10-11, 11-10-20, 11-11-10, 11-12-05, 11-15-24, 11-17-04, subsections 1 and 2 of section 11-17-08, sections 11-19-08, 11-19-13, 11-19-14, 11-19-15, 11-19-25, 11-20-01, 11-20-03, 11-21-01, subsections 2, 4, and 5 of section 11-21-02, sections 11-21-03, 11-21-04, 11-21-12, 11-21-13, 11-21-14, 11-30-16, 12-45-01, 12-46-13, 12-51-07, subsection 2 of section 12-60-16.1, section 12-62-01.1, subsection 5 of section 12.1-01-04, sections 12.1-20-16, 14-03-09, 14-03-10, 14-03-11, 14-03-17, 14-03-19, 14-03-20, 14-03-21, 14-03-22, 14-03-24, subsection 1 of section 14-07.1-02, sections 16.1-12-03, 16.1-15-08, 16.1-15-09, 16.1-15-11, 16.1-15-13, 16.1-16-07, 23-05-06, 23-07.1-08, 23-07.1-09, 23-07.1-10, subsection 4 of section 23-07.4-01, sections 23-07.4-02, 23-07.6-05, 23-07.6-12, 24-06-05, 24-07-22, 24-07-24, 24-07-28, subsections 2 and 7 of section 25-03.1-02, section 25-03.1-03, subsection 2 of section 25-03.1-21, sections 25-03.1-38, 25-03.1-46, subsection 3 of section 25-04-05.1, subsections 2 and 3 of section 25-04-15, sections 25-11-05, 27-01-01, 27-01-01.1, 27-01-09, subsections 1 and 3 of section 27-01-10, sections 27-05-01, 27-05-06, subsection 1 of section 27-05-08, sections 27-06-01, 27-07.1-02, 27-07.1-03, subsection 1 of section 27-08.1-01, sections 27-08.1-06, 27-08.1-08, 27-09.1-14, subsection 1 of section 27-15-01, sections 27-15-02, 27-19-08, subsection 2 of section 27-20-47, subsection 2 of section 27-23-01, sections 27-23-02, 27-24-04, 28-20-22, 28-26-19, 28-29-04, subsection 3 of section 29-01-01, subsection 4 of section 29-01-09, subsection 3 of section 29-01-14, sections 29-01-15, 29-02-13, 29-07-01.1, 29-07-06, 29-10.1-38, subsection 1 of section 29-15-21, section 29-22-02, subsection 6 of section 30.1-01-06, sections 30.1-02-02, 30.1-02-07, subdivision c of subsection 2 of section 30.1-10-01, sections 30.1-32-01, 30.1-32-03, 30.1-32-04, 30.1-33-01, 30.1-33-03, 30.1-33-04, 30.1-33-05, 30.1-33-06, subsection 1 of section 30.1-34-03, sections 30.1-34-04, 30.1-34-05, 31-01-16, 31-01-18, 32-19-23, 32-19-24, 32-19-30, 32-22-18, 32-24-01, 33-06-01, 33-06-03, 33-06-04, 36-01-18, 36-11-10, 36-11-11, 37-15-18, 37-16-04, subsection 1 of section 38-10-01, sections 38-10-03, 38-10-05, 38-10-06, 38-10-08, 39-06-16, subdivision a of subsection 5 and subsection 7 of section 39-06.1-03, sections 40-02-16, 40-09-16, 40-11-13, subsections 1 and 3 of section 40-18-01, sections 40-18-06.2, 40-18-15, 40-18-15.1, 40-18-19, 40-18-20, subsection 3 of section 42-01-07, subsection 2 of section 43-23-07, sections 44-02-04, 44-02-05, 44-03-02, subsection 2 of section 44-05-01, sections 44-08-09, 44-09-01, 44-11-12, 46-04-05, 47-03-06, 47-18-22, subsection 9 of section 47-19-02, section 47-19-06, subsection 5 of section 47-24.1-01, subsection 2 of section 50-01.1-04, sections 50-06.3-07, 50-06.3-09, 50-24.1-07, 54-12-01.3, 57-26-02, 57-37.1-06, 57-37.1-12, 58-02-23, subsection 3 of section 59-01-11, section 59-02-12, subsection 6 of section 59-02-20, sections 59-04-02,

59-04-03, subsection 12 of section 59-04-04, sections 59-04-08, 59-04-10, 59-04-15, 59-04-24, 59-04-25, 59-04-26, 59-04-27, 59-04-29, 59-04-31, 59-05-28, and 59-05-55, relating to references to county courts and county judges, judicial districts, the election, term of office, and chambers of district judges, multicounty agreements to share county judge services, vacancies in the office of county court judge, and abolition of the office of municipal judge if municipal cases are transferred to county or district court; to repeal sections 11-09-22, 11-09-23, 11-11-12, 11-15-10, 24-07-25, 27-01-04, 27-01-05, chapters 27-07.1, 27-08.2, sections 27-09.1-21, 27-20-04, chapter 27-26, and section 31-09-07 of the North Dakota Century Code, relating to references to county courts and county court judges; to provide an effective date; to provide an expiration date; and to provide a statement of legislative intent.

#### ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 74 YEAS, 31 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Aarsvold; Anderson, B.; Bateman; Berg, G.; Berg, R.; Brown; Byerly; Carlisle; Carlson; Clayburgh; Cleary; Coats; Dalrymple; DeMers; DeWitz; Enget; Erickson; Flaagan; Freier; Gabrielson; Gates; Gerntholz; Gorder; Grumbo; Hanson; Hausauer; Henegar; Hokana; Howard; Huether; Jacobson; Jensen; Kelsch; Kerzman; Kolbo; Kretschmar; Kunkel; Larson; Laughlin; Linderman; Martinson; Meyer; Miller; Mutzenberger; Myrdal; Nicholas; Nichols; Nowatzki; Oban; Olson, A.; Peterson; Porter; Price; Pyle; Rennerfeldt; Ring; Ritter; Rydell; Scherber; Schimke; Schindler; Schneider; Skar; Skjerven; Snyder; Soukup; St. Aubyn; Starke; Svedjan; Thorpe; Timm; Trautman; Wentz; Williams

NAYS: Belter; Bernstein; Bodine; Boehm; Boucher; Brokaw; Delzer; Dorso; Gilmore; Goffe; Gorman; Grosz; Kaldor; Kloubec; Kroeber; Mahoney; Martin; Muhs; Nelson; Olsen, D.; Schmidt; Shide; Stofferahn; Thompson; Tollefson; Urlacher; Wald; Wardner; Whalen; Wilkie; Speaker R. Anderson

ABSENT AND NOT VOTING: Payne

HB 1517 passed and the title was agreed to.

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MESSAGE to the SENATE from the HOUSE (Roy Gilbreath, Chief Clerk)

MR. PRESIDENT: The House has not adopted the conference committee report on SB 2005. The Speaker has appointed as a new conference committee to act with a like committee from the Senate on:

SB 2005: Reps. Howard; Wentz; DeMers

#### COMMUNICATION FROM GOVERNOR GEORGE A. SINNER

April 9, 1991

This is to inform you that on April 9, 1991, I signed the following: HB 1471.

#### RECONSIDERATION OF A VETOED MEASURE

HB 1599: A BILL for an Act to create and enact a new subsection to section 23-11-11 of the North Dakota Century Code, relating to the powers of housing authorities; and to amend and reenact section 54-17-07.6 of the North Dakota Century Code, relating to the acceptance of grants, contributions, loans, and other aid by the state housing finance agency.

#### ROLL CALL

The question being on the passage of the bill, as enrolled, over the Governor's veto, which has been read, the roll was called and there were 67 YEAS, 38 NAYS, 1 EXCUSED, 0 ABSENT AND NOT VOTING.

YEAS: Aarsvold; Anderson, B.; Berg, R.; Bernstein; Brown; Byerly; Carlisle; Carlson; Clayburgh; Cleary; Delzer; Dorso; Freier; Gabrielson; Gates; Gerntholz; Gilmore; Gorder; Gorman; Hausauer; Henegar; Howard; Jacobson; Jensen; Kaldor; Kelsch; Kloubec; Kretschmar; Kroeber; Larson; Martin; Martinson; Muhs; Mutzenberger; Myrdal; Oban; Olsen, D.; Olson, A.; Porter; Price; Pyle; Rennerfeldt; Ring; Ritter; Rydell; Scherber; Schimke; Schindler; Schmidt; Schneider; Shide; Skar; Skjerven; Snyder; Soukup; St. Aubyn; Svedjan; Thorpe; Timm; Tollefson; Trautman; Urlacher; Wald; Wardner; Wentz; Williams; Speaker R. Anderson

NAYS: Bateman; Belter; Berg, G.; Bodine; Boehm; Boucher; Brokaw; Coats; Dalrymple; DeMers; DeWitz; Enget; Erickson; Flaagan; Goffe; Grosz; Grumbo; Hanson; Hokana; Huether; Kerzman; Kolbo; Kunkel; Laughlin; Linderman; Mahoney; Meyer; Miller; Nelson; Nicholas; Nichols; Nowatzki; Peterson; Starke; Stofferahn; Thompson; Whalen; Wilkie

ABSENT AND NOT VOTING: Payne

The House sustained the Governor's veto on HB 1599.

#### MOTIONS

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

REP. KLOUBEC MOVED that the House be on the Seventh order of business, and at the conclusion of the Seventh order, the House be on the Twelfth order of business, and at the conclusion of the Twelfth order, the House stand adjourned until 8:00 a.m., Wednesday, April 10, 1991, which motion prevailed.

#### REPORTS OF CONFERENCE COMMITTEES

HB 1019, as engrossed: Your conference committee (Sens. Robinson, Yockim, Lips and Reps. Wald, Payne, Brokaw) recommends that the SENATE RECEDE from the Senate amendments on HJ pages 1594-1597, amend as follows, and then place on the Seventh order:

That the Senate recede from its amendments as printed on pages 1594-1597 of the House Journal and pages 1398-1401 of the Senate Journal, and that Engrossed House Bill No. 1019 be amended as follows:

Page 1, line 4, replace "and" with "to repeal section 7 of House Bill No. 1005, as approved by the fifty-second legislative assembly, relating to the land reclamation research center; to provide for a bond issuance for a Bismarck state college parking lot;"

Page 1, line 5, after "fund" insert "; and to provide for a lease agreement for the board of higher education to acquire Hastings hall"

Page 1, line 16, replace "4,168,699" with "4,356,658"

Page 1, line 18, replace "1,500,644" with "1,535,897"

Page 1, line 20, replace "6,364,000" with "6,743,807"

Page 2, line 1, replace "50,000" with "50,000"

Page 2, remove line 2

Page 2, line 3, replace "special" with "all", remove "appropriation", and replace "24,935,824" with "25,523,843"

Page 2, after line 3, insert:

|                                  |             |
|----------------------------------|-------------|
| "Less estimated income           | 25,144,036  |
| Total general fund appropriation | \$ 379,807" |

Page 2, remove line 18

Page 2, line 20, replace "20,839,141" with "16,404,141"

Page 2, line 23, replace "2,077,979" with "2,101,429"

Page 2, line 28, replace "50,000" with "100,000"

Page 2, line 29, replace "34,107,631" with "34,181,081"

Page 2, after line 29, insert:

"Grand total general fund appropriation H.B. 1019                      \$    379,807"

Page 3, line 1, replace "102,891,887" with "99,088,549"

Page 3, after line 1, insert:

"Grand total all funds appropriation H.B. 1019                      \$99,468,356"

Page 3, line 9, replace "\$5,517,775" with "\$5,532,775"

Page 4, remove lines 6 through 10

Page 7, line 3, replace "budget" with "emergency commission"

Page 7, line 4, remove "section"

Page 7, remove lines 5 through 20

Page 7, line 22, replace "\$623,533" with "\$379,807"

Page 7, line 23, replace "lignite" with "general"

Page 7, line 24, remove "research"

Page 7, line 25, after "1993" insert ", and the amount of \$210,193 included in grants in subdivision 1 of section 1 of this Act must be made available from the lignite research fund for nonmatching grants to maintain the center's core staff for the second year of the 1991-93 biennium"

Page 7, after line 26, insert:

"SECTION 13. APPROPRIATION - HOUSING FINANCE AGENCY. In addition to the amount appropriated to the housing finance agency in subdivision 4 of section 1 of this Act, there is hereby appropriated any additional income from federal or other funds which may become available to the agency for the biennium beginning July 1, 1991, and ending June 30, 1993.

SECTION 14. SOLID WASTE MANAGEMENT FUND. The estimated income line item included in section 1 of this Act includes \$140,000 which the geological survey may spend from the solid waste management fund for the biennium beginning July 1, 1991, and ending June 30, 1993.

SECTION 15. BOARD OF HIGHER EDUCATION - BOND ISSUANCE - APPROPRIATION. The state board of higher education, in accordance with chapter 15-55, is hereby authorized to issue and sell self-liquidating, tax-exempt bonds in any amount up to, but not exceeding, \$350,000, for the purpose of constructing a revenue-producing parking lot at Bismarck state college. Bonds issued under the provisions of this Act may not become a general obligation of the state of North Dakota. The proceeds from the sale of bonds, or so much thereof as may be necessary, plus any available funds received from federal or private sources, are hereby appropriated for the construction and equipping of a parking lot. Any unexpended balance from the sale of bonds must be placed in a sinking fund for the retirement of the authorized bonds.

SECTION 16. LEGISLATIVE INTENT - MILL AND ELEVATOR ASSOCIATION. It is the intent of the fifty-second legislative assembly that the mill and elevator association phase out its certified seed grains processing and marketing program.

SECTION 17. BOARD OF HIGHER EDUCATION - LEASE PURCHASE AGREEMENT. The board of higher education may enter into a lease purchase agreement subject to such limitations as may be required by law for the purpose of acquiring title to Hastings hall on the North Dakota state university campus from the North Dakota state seed department beginning July 1, 1992. Terms of the agreement must be approved by the budget section of the legislative council. Moneys to make lease payments must be made within the limits of appropriations made to North Dakota state university.

SECTION 18. REPEAL. Section 7 of House Bill No. 1005, as approved by the fifty-second legislative assembly, is repealed."

Renumber accordingly

#### STATEMENT OF PURPOSE OF AMENDMENT:

#### DEPARTMENT 405 - INDUSTRIAL COMMISSION

##### Salaries and Wages

Salaries and wages are increased by \$187,959 from other funds for the following positions:

|  | OTHER<br>FUNDS |
|--|----------------|
| 1 FTE geologist II (Geological Survey)<br>(added in executive budget and deleted in House)   | \$ 68,212      |
| Geological Survey - Funding was to come from core<br>library user fees but bill was defeated   | 15,000         |
| 1 FTE geologist and temporary summer help for solid<br>waste management per House Bill No. 1060 funded<br>from the solid waste management fund | 104,747        |
| Total  | \$187,959      |

The Senate had provided \$65,261 for a research analyst position the House had deleted from the executive budget, and these amendments do not provide funding for the position. Also, funding of \$4,900 in operating expenses, \$700 in data processing, and \$6,000 in equipment restored by the Senate for the research position is not included in this amendment.

##### Grants

The grants line item is increased by \$379,807 from the general fund to provide funding for the Land Reclamation Research Center for the first year of the biennium, including the Governor's salary package, and any unused amount may be used to fund the core staff for the second year of the biennium. Also, \$210,193 in nonmatching grants is provided from the lignite research fund for the center for the second year of the biennium. The center may apply on a competitive basis for grants from the lignite research fund for additional funds for the biennium. Section 7 of House Bill No. 1005 is repealed since it differs from the above provision.

##### Geological Survey Contingency

This line item and the related section are removed since the funding was to be from increased core library user fees. The fee increase proposal was defeated. The \$15,000 is added back to salaries.

A new section appropriates \$140,000 from the solid waste management fund to the Geological Survey for completing site suitability reviews. Of the \$140,000, \$104,747 is in salaries and \$35,253 is in operating expenses.

#### DEPARTMENT 473 - HOUSING FINANCE AGENCY

Salaries and wages are increased by \$23,450 from other funds to allow for 2.5 FTE positions to be classified as permanent rather than temporary. The executive budget allowed for the positions to be FTE positions and the House changed their status back to temporary.

The contingency line item is increased by \$50,000 from other funds to restore funding deleted by the House.

#### DEPARTMENT 475 - MILL AND ELEVATOR

The capital improvements line item of \$4,435,000 from other funds and the related section added by the House are deleted. It is the intent that, as in the past, the Mill and Elevator's capital improvement projects be approved by the Industrial Commission and need not be part of the appropriation.

Also, a section is added providing legislative intent that the Mill and Elevator phase out its certified seed grains processing and marketing program.

The amendments provide that Bismarck State College may issue revenue bonds in the amount of \$350,000 for the construction and equipping of a parking lot. The parking lot is needed only if funding for the science center is approved.

A section is added to authorize the Board of Higher Education to enter into a lease purchase agreement to acquire Hastings Hall on the North Dakota State University campus.

HB 1558, as engrossed: Your conference committee (Sens. Mushik, Wogsland, Thane and Reps. Dalrymple, R. Berg, Starke) recommends that the HOUSE ACCEDE to the Senate amendments on HJ pages 1313-1314 and then place it on the Seventh order.

MESSAGE to the SENATE from the HOUSE (Roy Gilbreath, Chief Clerk)

MR. PRESIDENT: The House has adopted the conference committee report on HB 1021, subsequently passed the same and the emergency clause carried.

MESSAGE to the SENATE from the HOUSE (Roy Gilbreath, Chief Clerk)

MR. PRESIDENT: The House has adopted the conference committee report on HB 1018, HB 1517, and HB 1597 and subsequently passed the same.

MESSAGE to the HOUSE from the SENATE (Marion Houn, Secretary)

MR. SPEAKER: The Senate has adopted the conference committee report on HB 1022, HB 1031, HB 1200, and HB 1534 and subsequently passed the same.

MESSAGE to the HOUSE from the SENATE (Marion Houn, Secretary)

MR. SPEAKER: The Senate has adopted the conference committee report on HB 1013.

MESSAGE to the HOUSE from the SENATE (Marion Houn, Secretary)

MR. SPEAKER: The Senate has amended and subsequently failed to pass: HB 1614.

MESSAGE to the HOUSE from the SENATE (Marion Houn, Secretary)

MR. SPEAKER: The Senate has adopted the conference committee report on SB 2020, SB 2234, SB 2282, and SB 2324 and subsequently passed the same.

#### REPORTS OF CONFERENCE COMMITTEES

SB 2020, as engrossed: Your conference committee (Sens. Satrom, Lindaas, Ingstad and Reps. Rydell, R. Berg, Starke) recommends that the HOUSE RECEDE from the House amendments on HJ pages 1432-1434, amend as follows, and then place on the Seventh order:

That the House recede from its amendments as printed on pages 1314 and 1315 of the Senate Journal and pages 1432-1434 of the House Journal, and that Engrossed Senate Bill No. 2020 be amended as follows:

Page 1, line 2, after "agencies" insert "; and requiring reports on the group insurance plan"

Page 1, line 21, replace "1,367,113" with "1,157,314"

Page 1, line 22, replace "385,250" with "377,250"

Page 2, line 1, replace "641,294" with "620,344"

Page 2, line 2, replace "63,540" with "48,340"

Page 2, line 3, replace "Self-funded health insurance" with "Health insurance program"

Page 2, line 5, replace "2,632,197" with "2,378,248"

Page 2, line 6, replace "5,606,196" with "5,352,247"

Page 2, after line 6, insert:

"SECTION 2. REPORT TO BUDGET SECTION OF LEGISLATIVE COUNCIL. In addition to the report required under North Dakota Century Code section 54-52.1-04.3, the public employees retirement board shall report to the budget section of the legislative council during the 1991-92 interim. The report must describe the status of the group insurance plan's reserve fund, the required balance of the reserve fund, and what action or events are necessary or have occurred in reaching the required balance."

Renumber accordingly

#### STATEMENT OF PURPOSE OF AMENDMENT:

#### DEPARTMENT 192 - PUBLIC EMPLOYEES RETIREMENT SYSTEM (PERS)

The amendment reduces the appropriation by \$253,949 as follows:

|                                | FTE | SALARIES<br>AND<br>WAGES | INFORMATION<br>SERVICES | OPERATING<br>EXPENSES | EQUIPMENT | TOTAL     |
|--------------------------------|-----|--------------------------|-------------------------|-----------------------|-----------|-----------|
| Flex comp<br>program           | 2.5 | \$123,624                | \$5,000                 | \$15,475              | \$ 9,020  | \$153,119 |
| Pre-retire-<br>ment            | .5  | 28,725                   | 1,000                   | 3,425                 | 3,430     | 36,580    |
| Benefits<br>program<br>manager | 1.0 | 57,450                   | 2,000                   | 2,050                 | 2,750     | 64,250    |
| Total                          | 4.0 | \$209,799                | \$8,000                 | \$20,950              | \$15,200  | \$253,949 |

#### FlexComp Program

The program is to continue on a contract basis with a consultant firm. Through a competitive contract basis, the PERS Board is to ensure that the party providing the services is not to promote or sell its services while enrolling employees in the FlexComp program.

#### Pre-retirement Counseling Program

Funding remains in the budget after the amendments to allow PERS the resources to continue its pre-retirement counseling program.

Benefits Program Manager

The funding for this position was from federal funds. If PERS receives a federal grant for this position and related expenses, the board is to ask for Emergency Commission approval to receive the grant.

Self-Funded Health Insurance

The amount of \$125,000 provided by the Senate for a self-funded health insurance program is deleted since PERS and Blue Cross Blue Shield have reached an agreement regarding a fully insured contract.

The conference committee amendment provides \$125,000 for the health insurance program to fund one FTE research analyst II position and related expenses to analyze health cost data.

The amendment requires the PERS Board to report to the Budget Section of the Legislative Council. The report is to describe the status of the group insurance plan reserve fund, its required balance, and how the balance can be or will be reached. Under North Dakota Century Code Section 54-52.1-04.3 the board is required to report the necessary balance of the reserve fund.

SB 2234, as engrossed: Your conference committee (Sens. Marks, Meyer, Stenehjem and Reps. Clayburgh, Kelsch, Ring) recommends that the HOUSE RECEDE from the House amendments on HJ pages 1142-1148, amend as follows, and then place on the Seventh order:

That the House recede from its amendments as printed on pages 1142-1148 of the House Journal and pages 1470-1475 of the Senate Journal and that Senate Bill No. 2234 be amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide for the creation of an office of administrative hearings, the appointment of a director of administrative hearings and other administrative hearings officers, to require the adoption of uniform rules of administrative practice and procedure, and to establish an advisory council; to repeal subsection 2 of section 50-24.4-18 and subsection 18 of section 54-12-01 of the North Dakota Century Code, relating to appointment of administrative hearings officers by the attorney general and certain appeals by nursing homes; to provide an appropriation; and to provide for a transfer.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Office of administrative hearings - Agency defined - Administrative agency defined.

1. A state office of administrative hearings is created.
2. The office is under the direction of a director of administrative hearings who must be free of any association that would impair the director's ability to function officially in a fair and objective manner. The director must be an attorney-at-law in good standing, admitted to the bar in this state, and currently licensed by the state bar board. The director of administrative hearings must be appointed by the governor and confirmed by the senate and shall hold office for a term of six years, the term beginning July first of the year of appointment and ending June thirtieth of the sixth calendar year after appointment.
3. The director of administrative hearings may preside at administrative hearings and may employ or appoint additional administrative hearings officers to serve in the office as necessary to fulfill the duties of office as described in section 4 of this Act and to provide administrative hearings officers to preside at administrative hearings as requested



by agencies. The director may delegate to an employee the exercise of a specific statutory power or duty as deemed advisable, subject to the director's control, including the powers and duties of a deputy director. All administrative hearings officers must be classified employees, except that the director of administrative hearings must be an unclassified employee who only may be removed, during a term of office, for cause. Each administrative hearings officer must have a demonstrated knowledge of administrative practices and procedures and must be free of any association that would impair the officer's ability to function officially in a fair and objective manner.

4. The director of administrative hearings may employ the necessary support staff required by the office. Support staff must be classified employees.
5. The director of administrative hearings shall develop categories of positions in the classified service under class titles for the appointment or employment of hearings officers and support staff in consultation with and approved by the director of the central personnel division, including the salary to be paid for each position or category of position.
6. In this Act, unless the context or subject matter otherwise requires, "agency" means each board, bureau, commission, department, or other administrative unit of the executive branch of state government whether headed by an appointed or elected official.
7. In this Act, unless the context or subject matter otherwise requires, "administrative agency" means that term as defined in section 28-32-01.

SECTION 2. Temporary administrative hearings officers. When regularly appointed administrative hearings officers are not available, the director of administrative hearings may contract on a temporary basis with qualified individuals to serve as administrative hearings officers for the office of administrative hearings.

### SECTION 3. Hearings before administrative hearings officers.

1. Notwithstanding the authority granted in chapter 28-32 allowing agency heads or other persons to preside in an administrative proceeding, all hearings of administrative agencies under chapter 28-32, except hearings conducted by the public service commission, the industrial commission, the commissioner of insurance, the workers compensation bureau, the state engineer, the department of transportation, job service North Dakota, and the commissioner of labor, and except rulemaking hearings held in accordance with section 28-32-02, must be conducted by the office of administrative hearings in accordance with the administrative hearings provisions of chapter 28-32 and any rules adopted pursuant to chapter 28-32. But, appeals hearings pursuant to section 61-03-22 and drainage appeals from water resource boards to the state engineer pursuant to chapter 61-32 must be conducted by the office of administrative hearings. Additionally, hearings of the department of corrections and rehabilitation for the parole board in accordance with chapters 12-56.1 and 12-59, regarding parole violations; job discipline and dismissal appeals to the board of higher education; education of the handicapped act due process hearings of the superintendent of public instruction; and chapter 37-19.1 veterans' preferences hearings for any agency must be conducted by the office of administrative hearings in accordance with applicable laws.

2. The agency head shall make a written request to the director requesting the designation of a hearings officer for each administrative hearing to be held. An agency may request a hearings officer to be designated to preside over the entire administrative proceeding. If a statute so requires, an agency shall, or unless a statute prohibits, an agency may, request that the hearings officer designated issue the final order in the matter. Informal disposition of an administrative proceeding may be made by an agency at any time before or after the designation of a hearings officer from the office of administrative hearings.
3. If a party to an administrative proceeding is in default, the agency may issue a default order and a written notice of default, including a statement of the grounds for default. If issued, the default notice and order must be served upon all the parties and the hearings officer, if one has been assigned. After service of the default notice and order, the agency may conduct further proceedings necessary to complete the administrative action with or without the participation of the party in default, and with or without a hearings officer from the office of administrative hearings presiding. The agency shall determine all the issues involved.
4. When assigning administrative hearings officers to conduct administrative hearings or to preside in an administrative proceeding, the director shall attempt to assign a hearings officer having expertise in the subject matter to be dealt with.
5. The director of administrative hearings may assign an administrative hearings officer to preside in an administrative proceeding, upon request, to any agency exempted from the provisions of this section, to any agency, or part of any agency, that is not an administrative agency subject to the provisions of chapter 28-32, to any unit of local government in this state, or to any agency to conduct a rulemaking hearing.

SECTION 4. Duties of administrative hearings officers. It is the duty of all administrative hearings officers to:

1. Advise an agency that has requested a hearings officer, and other affected interests and parties, about the location and time for an administrative hearing, or related proceeding, to be held, in order to allow for participation by all affected interests and parties. The hearings officer shall give proper notice as required by law.
2. Conduct only hearings and related proceedings for which proper notice has been given.
3. Assure that all hearings and related proceedings are conducted in a fair and impartial manner.
4. When appropriate, make findings of fact, conclusions of law, and recommendations, taking notice whether the agency has documented its statutory authority to take the proposed action, fulfilled all relevant substantive and procedural requirements of law or rule, and, in rulemaking proceedings, conformed to the provisions of chapter 28-32.
5. Perform any and all other functions required by law, assigned by the director of administrative hearings, or delegated to the hearings officers by the agency.

6. When an agency requests a hearings officer to preside only as a procedural hearings officer, the hearings officer may only conduct the hearing and perform such other functions of the proceeding as requested. If the hearings officer is presiding only as a procedural hearings officer, the agency head must be present at the hearing and the agency head shall issue findings of fact and conclusions of law, as well as any order resulting from the hearing. The procedural hearings officer may issue orders in regard to the conduct of the hearing, pursuant to statute or rule, and to otherwise effect an orderly and prompt disposition of the proceedings.

SECTION 5. Uniform rules of administrative practice or procedure  
- Effective date - Hearings officer rules.

1. The director of administrative hearings shall adopt, in accordance with chapter 28-32, rules of administrative hearings practice or procedure which implement chapter 28-32 and which aid in the course and conduct of all administrative hearings and related proceedings conducted by administrative agencies under chapter 28-32. The uniform rules must be effective January 1, 1992. The uniform rules must be used by all administrative agencies subject to chapter 28-32 which do not have their own rules of administrative hearings practice or procedure governing the course and conduct of hearings. If an administrative agency's rules are silent on any aspect of the agency's administrative hearings practice or procedure, the applicable uniform rule governs.
2. The director of administrative hearings may adopt rules to further establish qualifications for hearings officers; to establish procedures for requesting and designating hearings officers; and to facilitate the performance of duties and responsibilities conferred by sections 1 through 8 of this Act. Any rules adopted by the director of administrative hearings pursuant to this subsection must be adopted in accordance with chapter 28-32.

SECTION 6. Transfer and transition provisions.

1. There is transferred from all agencies required to use the office of administrative hearings to conduct administrative hearings, to the office of administrative hearings, on the effective date of this Act, the following:
  - a. All functions performed on the day before the effective date of this Act by hearings officers of the agency, pursuant to the administrative hearings provisions of chapter 28-32, and any rules adopted pursuant to it, or any other applicable law, which must now be performed by hearings officers of the office of administrative hearings on and after the effective date of this Act.
  - b. The full-time equivalents of any agency hearings officer positions which are dedicated to the appointment or employment full time, or half time or more, of administrative hearings officers. Any individual appointed or employed pursuant to such full-time equivalent whose position is transferred to the office of administrative hearings may elect to accept the transfer, with no reduction in pay, or may elect to remain employed by the agency in another position, if offered by the agency.
  - c. The full-time equivalents of any agency positions that are dedicated to the appointment or employment full time, or half time or more, of support staff for administrative

hearings officers or their work. Any individual who is appointed or employed pursuant to such full-time equivalent whose position is transferred to the office of administrative hearings may elect to accept the transfer, with no reduction in pay or classification, or may elect to remain employed by the agency in another position, if offered by the agency.

- d. All property, equipment, materials, and copies of records held, used, arising from, available, or to be made available, in connection with the functions, individuals, and authority transferred by this section, as needed and required by the office of administrative hearings.
2. If the director of administrative hearings and the agency transferring any position or any property, equipment, materials, or copies of records to the office of administrative hearings cannot agree about who or what is to be transferred, the director of the office of management and budget may make determinations with regard to transfers to carry out sections 1 through 8 of this Act, to accommodate the needs and requirements of the office of administrative hearings, and to accommodate a smooth transition of positions, persons, property, equipment, materials, and records.
3. The director of the office of management and budget, if necessary, may require agencies to allow the use of agency facilities on a temporary basis to allow for an orderly consolidation of the office of administrative hearings, personnel, property, equipment, materials, and copies of records in one location as space becomes available.
4. Administrative proceedings in progress at the time of the effective date of this Act may be transferred to the office of administrative hearings to be conducted in accordance with applicable law only if the same person or persons currently involved in conducting the proceedings for the agency is available to conduct the proceedings for the office of administrative hearings. Otherwise, an administrative proceeding in progress at the time of the effective date of this Act must be handled by the agency or person previously involved, in accordance with applicable law.

**SECTION 7. Compensation for provision of hearings officers - Special fund established - Continuing appropriation.**

1. The office of administrative hearings may require payment for services rendered by any administrative hearings officer provided by it to any agency, or any unit of local government, in the conduct of an administrative hearing and related proceedings and those entities must make the required payment to the office. Payment may include payment for support staff necessary to render hearings officer services. General fund moneys may not be used for payment by state agencies pursuant to this subsection. Moneys received by the office of administrative hearings in payment for providing an administrative hearings officer to conduct an administrative hearing and related proceedings must be deposited into the operating fund of the office of administrative hearings.
2. The office of administrative hearings may require payment for mileage, meals, and lodging in connection with services rendered by an administrative hearings officer provided to any agency, or any unit of local government, in the conduct of an administrative hearing and related proceedings, and those entities must make the required payment to the office.

Payment for meals and lodging must be in the amounts allowable under section 44-08-04. Payment for mileage when using state vehicles must be in amounts set for user charges under section 24-02-03.5. All other payments must be in amounts allowed for other state officials and employees. Either general fund or special fund moneys, or other income, may be used for the payment of mileage, meals, and lodging under this subsection.

3. A special fund is established in the state treasury and designated as the administrative hearings fund. The director of administrative hearings shall deposit in the fund all moneys received by the office of administrative hearings in payment for providing temporary administrative hearings officers to conduct administrative hearings and related proceedings under this Act, as well as all moneys received by the office in payment for mileage, meals, and lodging in connection with providing any administrative hearings officer to conduct an administrative hearing and related proceedings. The moneys in the fund are a standing and continuing appropriation and are appropriated, as necessary, for the following purposes:
  - a. For the director of administrative hearings to contract with and make payment to temporary administrative hearings officers, as necessary, for the purpose of providing requested administrative hearings officers to agencies or any unit of local government.
  - b. For the director of administrative hearings to pay mileage, meals, and lodging to any hearings officers, as necessary, in connection with the services to be provided by this Act.

**SECTION 8. ADVISORY COUNCIL.** There is created a state advisory council for administrative hearings. The advisory council must be a committee or subcommittee of the state bar association of North Dakota, appointed by its president. The advisory council shall meet with the director at least semiannually and shall advise the director on policy matters affecting the office of administrative hearings and on rules adopted by the director.

**SECTION 9. REPEAL.** Subsection 2 of section 50-24.4-18 and subsection 18 of section 54-12-01 of the North Dakota Century Code are repealed.

**SECTION 10. APPROPRIATION.** The funds provided in this section, or so much thereof as may be necessary, are hereby appropriated from special funds derived from federal funds and other income to the office of administrative hearings for the purpose of providing administrative hearings officers for state agencies, and such units of local government, as may require hearings officer services, for the biennium beginning July 1, 1991, and ending June 30, 1993, as follows:

|                               |           |
|-------------------------------|-----------|
| Salaries and wages            | \$484,477 |
| Information Services Division | 19,000    |
| Operating expenses            | 67,816    |
| Equipment                     | 33,232    |
| Total estimated income        | \$604,525 |

**SECTION 11. TRANSFER - ATTORNEY GENERAL - OFFICE OF MANAGEMENT AND BUDGET.** There are hereby transferred the amounts of \$161,443 and \$78,076, now contained in the budgets of the attorney general and the office of management and budget, respectively, or so much thereof as may be necessary, to the office of administrative hearings for the purpose of providing the services authorized in this Act for the biennium beginning July 1, 1991, and ending June 30, 1993, subject to

emergency commission approval. The emergency commission, notwithstanding section 54-16-04, is authorized during the biennium beginning July 1, 1991, and ending June 30, 1993, to approve these transfers of funds which are appropriated in section 10 of this Act to the extent necessary and based upon application by the office of administrative hearings."

Renumber accordingly

SB 2282, as reengrossed: Your conference committee (Sens. Kelsh, Lindaas, Vosper and Reps. Payne, Jensen, Nowatzki) recommends that the HOUSE RECEDE from the House amendments on HJ pages 1575-1576, amend as follows, and then place on the Seventh order:

That the House recede from its amendments as printed on pages 1575 and 1576 of the House Journal and page 1476 of the Senate Journal, and that Reengrossed Senate Bill No. 2282 be amended as follows:

Page 2, line 3, after "refund" insert "of more than fifty percent"

Page 2, after line 3, insert:

"8. "Voting grower" means a grower who has paid the assessment under this Act, whether or not the grower has applied for a refund."

Page 2, line 18, after the period insert "Each candidate must be supported by a petition bearing the signatures of twenty-five growers from the candidate's district."

Page 2, line 28, after the period insert "Each candidate must be supported by a petition bearing the signatures of twenty-five growers from the candidate's district."

Page 3, line 2, after the period insert "When a member's office is vacant, the council, before beginning the nominating process, shall publish a conspicuous notice of the vacancy, in the official newspaper of every county in the district."

Page 5, line 2, replace "one-half of one percent of the value of a" with "one cent per"

Page 5, line 3, after "state" insert ", until a national corn checkoff is implemented"

Page 6, line 8, after "by" insert "voting"

Page 6, line 9, replace "participating" with "voting"

Page 6, line 12, replace "participating" with "voting"

Page 6, line 17, replace "participating" with "voting" and replace "Participating" with "Voting"

Page 6, line 18, replace "participating" with "voting"

Page 6, line 20, replace "participating" with "voting"

Page 6, line 21, replace "participating" with "voting"

Page 6, line 26, replace "participating" with "voting"

Renumber accordingly

SB 2324, as engrossed: Your conference committee (Sens. Heinrich (refused to sign), Jerome, Stenenhjem and Reps. Freier, Kunkel, Goffe) recommends

that the HOUSE RECEDE from the House amendments on HJ pages 1280-1281, amend as follows, and then place on the Seventh order:

That the House recede from the House amendments as printed on pages 1280-1281 of the House Journal and page 1186 of the Senate Journal, and that Engrossed Senate Bill No. 2324 be amended as follows:

Page 1, line 22, remove the overstrike over "~~who accepts a retirement allowance under~~"

Page 2, line 1, remove the overstrike over "~~chapter 39-03-1,~~" and insert immediately thereafter "52-11,", remove the overstrike over "~~54-52, 15-39-1,~~", and remove the overstrike over "~~under the alternative retirement program~~"

Page 2, line 2, remove the overstrike over "~~provided by the state board of higher education,~~" and replace "~~with at least ten continuous~~" with "or a retired state employee who is receiving social security retirement benefits pursuant to 42 U.S.C. 402,"

Page 2, line 3, remove "years of state employment" and remove the overstrike over "~~at the time of retirement~~"

Page 2, line 7, remove the overstrike over "~~retires from employment~~"

Page 2, line 8, remove the overstrike over "~~with~~" and remove "leaves the employ of"

Page 2, line 10, remove the overstrike over "~~prior to retirement~~"

Renumber accordingly

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

ROY GILBREATH, Chief Clerk