

JOURNAL OF THE HOUSE

Fiftieth Legislative Assembly

\*\*\*\*\*

SIXTY-NINTH DAY

Bismarck, April 14, 1987

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

The prayer was offered by Father Richard Sinner, Fargo, North Dakota.

ROLL CALL

The roll was called and all Representatives were present, except Representatives Dorso, Kent, Knudson, Lang, Nicholas, Shaft, and Stofferahn.

A quorum was declared by the Speaker.

CORRECTION AND REVISION OF THE JOURNAL

MR. SPEAKER: Your Committee on Correction and Revision of the Journal has carefully examined the Journal of the Sixty-eighth Day and finds the same to be correct.

REP. THOMPSON, Chairman

REP. CLEVELAND MOVED that the report be adopted, which motion prevailed.

SIGNING OF BILLS AND RESOLUTIONS

THE CHIEF CLERK ANNOUNCED that the Speaker signed the following:

SB 2010, SB 2011, SB 2017, SB 2128, SB 2319, SB 2365,  
SB 2471, SB 2548, SB 2553, SCR 4047

ROY GILBREATH, Chief Clerk

MESSAGE TO THE SENATE  
HOUSE CHAMBER

MR. PRESIDENT: I have the honor to return herewith the following which the Speaker has signed.

SB 2010, SB 2011, SB 2017, SB 2128, SB 2319, SB 2365,  
SB 2471, SB 2548, SB 2553, SCR 4047

ROY GILBREATH, Chief Clerk

MOTION

REP. STRINDEN MOVED that the House stand in recess until 9:30 a.m., which motion prevailed.

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

## ANNOUNCEMENT BY SPEAKER

THE SPEAKER ANNOUNCED that Rep. Graba would replace Rep. Laughlin on the Conference Committee on HB 1021.

MESSAGE TO THE SENATE  
HOUSE CHAMBER

MR. PRESIDENT: I have the honor to inform you that Rep. Graba will replace Rep. Laughlin on the conference committee on HB 1021.

ROY GILBREATH, Chief Clerk

## REPORT OF CONFERENCE COMMITTEE

MR. SPEAKER: Your Conference Committee to which was referred HB 1021 has had the same under consideration and recommends that the HOUSE ACCEDE to the amendments as found on pages 2660-2662 of the House Journal.

For the Senate: Sens. Wogsland, Shea, Nelson  
For the House: Reps. Gunsch, Gerntholz, Graba

HB 1021 was placed on the Seventh order of business on the calendar for the succeeding legislative day.

## DELIVERY OF ENROLLED RESOLUTION

THE SPEAKER ANNOUNCED that the following resolution was delivered to the Secretary of State for his filing at the hour of 8:55 a.m., April 14, 1987:

HCR 3029

## DELIVERY OF ENROLLED BILLS

THE SPEAKER ANNOUNCED that the following bills were delivered to the Governor for his approval at the hour of 9:24 a.m., April 14, 1987:

HB 1017, HB 1020, HB 1052, HB 1183, HB 1242, HB 1448,  
HB 1465, HB 1633, HB 1634, HB 1645, HB 1666

## APPOINTMENT OF CONFERENCE COMMITTEE

THE SPEAKER ANNOUNCED the following appointment to a new Conference Committee on HB 1023:

Reps. Winkelman, Wald, Opedahl

## REPORT OF PROCEDURAL COMMITTEE

MR. SPEAKER: Your procedural Committee on Delayed Bills recommends that the following be introduced:

HB 1686, HCR 3097

REP. STRINDEN, Chairman

REP. GOETZ MOVED that the report be adopted, which motion prevailed.

TUESDAY, APRIL 14, 1987

2845

COMMUNICATION FROM GOVERNOR

State of North Dakota  
EXECUTIVE OFFICE  
Bismarck

April 14, 1987

The Honorable Richard Kloubec  
Speaker of the House  
House Chamber  
State Capitol  
Bismarck, North Dakota 58505

Dear Speaker Kloubec:

This is to inform you that on April 10, 1987, I signed the following:

HB 1037, HB 1578, HB 1601, HB 1679.

This is to inform you that on April 13, 1987, I signed the following:

HB 1001, HB 1625.

Sincerely,

GEORGE A. SINNER  
Governor

REPORT OF CONFERENCE COMMITTEE

REP. GUNSCH MOVED that the conference committee report on HB 1021 be adopted, which motion prevailed.

MOTION

REP. STRINDEN MOVED that the rules be suspended, that HB 1021 be deemed properly reengrossed and placed on the calendar, as amended, for second reading and final passage, which motion prevailed.

SECOND READING OF HOUSE BILL

HB 1021: A BILL for an Act making an appropriation for defraying the expenses of the state industrial commission and the agencies under the management of the industrial commission of the state of North Dakota.

Which has been read.

ROLL CALL

The question being on the final passage of the bill, as amended, the roll was called and there were 98 YEAS, 3 NAYS, 5 ABSENT AND NOT VOTING.

**YEAS:** Aas; Almlie; Anderson; Belter; Berg, G.; Berg, R.; Brokaw; Christman; Cleveland; Dalrymple; DeMers, J.; DeMers, P.; Dotzenrod; Enget; Flaagan; Frey; Gates; Gerntholz; Goetz; Gorman; Graba; Gunsch; Halmrast; Hamerlik; Hanson, L.; Hanson, O.; Haugen; Haugland; Hausauer, A.; Hausauer, R.; Hill; Hoffner; Hokana; Kelly; Klundt; Knell; Knudson; Koland; Kolbo; Kretschmar; Kuchera; Lang; Larson; Laughlin; Lautenschlager; Linderman; Lindgren; Marks; Martin; Martinson; Mertens; Moore; Murphy; Myrdal; Nelson, C.; Nelson, J.; Nicholas; Nowatzki; Oban; O'Connell; Olson, V.; Opedahl; O'Shea; Payne; Peterson; Rice; Riehl; Rydell; Scherber; Schindler; Schneider; Shaw; Shide; Shockman; Skjerven; Smette; Solberg; Sorensen; Starke; Stofferahn; Strinden; Thompson; Tokach; Tollefson; Tomac; Trautman; Ulmer; Vander Vorst; Wald; Watne; Wentz; Whalen; Wilkie; Williams, A.; Williams, C.; Williams, W.; Winkelman; Speaker Kloubec

**NAYS:** Kingsbury; Melby; Meyer

**ABSENT AND NOT VOTING:** Dorso; Kent; Olsen, D.;  
Olson, A.; Shaft

HB 1021 passed and the title was agreed to.

\*\*\*\*\*

#### FIRST READING OF HOUSE BILL

Reps. A. Hausauer, Strinden, Mertens, Hoffner introduced:

(Approved by the Committee on Delayed Bills)

**HB 1686:** A BILL for an Act to create and enact a new section to chapter 57-38 of the North Dakota Century Code, relating to a surtax based on income tax liability of individuals, estates, or trusts; and to provide an effective date and an expiration date.

#### MOTION

**REP. STRINDEN MOVED** that the rules be suspended, that HB 1686 not be referred to committee but placed on the Eleventh order for second reading and final passage on tomorrow's calendar, which motion prevailed.

#### FIRST READING OF A HOUSE CONCURRENT RESOLUTION

Reps. Hoffner, Klundt, Starke and Sen. Langley introduced:

(Approved by the Committee on Delayed Bills)

**HCR 3097:** A concurrent resolution congratulating Kamille Bachmeier on winning the state spelling bee.

Was read the first time.

#### MOTION

**REP. STRINDEN MOVED** that the rules be suspended, that HCR 3097 not be printed, not be referred to committee, be read in its

entirety, be printed in the Journal, and placed on the calendar for second reading and final passage, which motion prevailed.

Reps. Hoffner, Klundt, Starke and Sen. Langley introduced:

**HOUSE CONCURRENT RESOLUTION NO. 3097**

A concurrent resolution congratulating Kamille Bachmeier on winning the state spelling bee.

WHEREAS, Kamille Bachmeier won the state spelling bee on April 9, 1987, by correctly spelling the word "mugwumpery"; and

WHEREAS, Kamille Bachmeier competed against two representatives from each of the state's 53 counties in the written competition to become one of 29 finalists; and

WHEREAS, Kamille Bachmeier competed against the other 28 finalists in the oral competition to win the state championship; and

WHEREAS, Kamille Bachmeier, because she won the state championship, will advance to the national spelling bee in Washington, D.C., in May;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Fiftieth Legislative Assembly extends its sincere and hearty congratulations to Kamille Bachmeier of Esmond, North Dakota, for winning the state spelling bee; and

BE IT FURTHER RESOLVED, that the Secretary of State forward a copy of this resolution to Kamille Bachmeier.

SECOND READING OF A HOUSE CONCURRENT RESOLUTION  
HCR 3097: A concurrent resolution congratulating Kamille Bachmeier on winning the state spelling bee.

Which has been read.

The question being on the final adoption of the resolution.

HCR 3097 was declared adopted on a voice vote.

\*\*\*\*\*

**MESSAGES FROM THE SENATE  
SENATE CHAMBER**

MR. SPEAKER: I have the honor to return herewith the following which the Senate has passed unchanged:

HB 1685

PERRY GROTBORG, Secretary

## SENATE CHAMBER

MR. SPEAKER: I have the honor to transmit herewith the following which the President Pro Tem has signed and your signature is respectfully requested:

SB 2404

PERRY GROTBORG, Secretary

## SENATE CHAMBER

MR. SPEAKER: I have the honor to return herewith HB 1677 which the Senate has amended and subsequently passed:

On page 1, line 6, delete the word "and" and after the word "appropriation" insert the words "; and to provide an expiration date"

On page 5, after line 21, insert the following section:

"SECTION 15. EXPIRATION DATE. This Act is effective through January 1, 1990, and after that date is ineffective."

And renumber the lines, sections, and pages accordingly

PERRY GROTBORG, Secretary

## CONSIDERATION OF MESSAGE FROM THE SENATE

REP. A. HAUSAUER MOVED that the House do not concur in the Senate amendments to Engrossed HB 1600 as printed on page 2760 of the House Journal, which motion prevailed.

## APPOINTMENT OF A CONFERENCE COMMITTEE

THE SPEAKER APPOINTED as a Conference Committee on HB 1600:

Reps. A. Hausauer, Goetz, Schneider

## CONSIDERATION OF MESSAGE FROM THE SENATE

REP. KRETSCHMAR MOVED that the House do concur in the Senate amendments to HB 1677, which motion prevailed.

## MOTION

REP. STRINDEN MOVED that the rules be suspended, that HB 1677 be deemed properly engrossed and placed on the calendar, as amended, for second reading and final passage, which motion prevailed.

## SECOND READING OF HOUSE BILL

HB 1677: A BILL for an Act to establish a temporary court of appeals; to amend and reenact subsection 5 of section 12.1-01-04, section 27-01-01, subsection 2 of section 27-23-01, and section 59-04-27 of the North Dakota Century Code, relating to references to the temporary court of appeals and judges of the temporary court of appeals; to provide an appropriation; and to provide an expiration date.

Which has been read.

#### ROLL CALL

The question being on the final passage of the bill, as amended, the roll was called and there were 82 YEAS, 21 NAYS, 3 ABSENT AND NOT VOTING.

**YEAS:** Aas; Almlie; Anderson; Belter; Berg, G.; Berg, R.; Christman; Cleveland; Dalrymple; Dotzenrod; Enget; Flaagan; Frey; Gates; Gerntholz; Goetz; Gorman; Gunsch; Halmrast; Hamerlik; Hanson, L.; Hanson, O.; Haugen; Haugland; Hausauer, A.; Hausauer, R.; Hill; Hoffner; Hokana; Kelly; Kingsbury; Knell; Kolbo; Kretschmar; Kuchera; Lang; Laughlin; Linderman; Lindgren; Marks; Martin; Martinson; Mertens; Meyer; Moore; Murphy; Myrdal; Nelson, C.; Nelson, J.; Nicholas; Nowatzki; O'Connell; Olsen, D.; Olson, A.; Olson, V.; Opedahl; O'Shea; Peterson; Rice; Riehl; Rydell; Scherber; Schindler; Schneider; Shaw; Shide; Shockman; Smette; Solberg; Sorensen; Stofferahn; Strinden; Tollefson; Trautman; Ulmer; Vander Vorst; Watne; Wentz; Williams, A.; Williams, C.; Williams, W.; Winkelman

**NAYS:** Brokaw; DeMers, J.; DeMers, P.; Graba; Klundt; Knudson; Koland; Larson; Lautenschlager; Melby; Oban; Payne; Skjerven; Starke; Thompson; Tokach; Tomac; Wald; Whalen; Wilkie; Speaker Kloubec

**ABSENT AND NOT VOTING:** Dorso; Kent; Shaft

HB 1677 passed and the title was agreed to.

\*\*\*\*\*

#### MOTION

REP. STRINDEN MOVED that the House stand in recess until 11:00 a.m., which motion prevailed.

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

#### ANNOUNCEMENT BY SPEAKER

SPEAKER KLOUBEC ANNOUNCED that Rep. Haugen would replace Rep. Dorso on the Conference Committee on SB 2259.

#### SIGNING OF BILLS AND RESOLUTIONS

THE CHIEF CLERK ANNOUNCED that the Speaker signed the following:

HB 1233, HB 1247, HCR 3095

ROY GILBREATH, Chief Clerk

MESSAGES TO THE SENATE  
HOUSE CHAMBER

MR. PRESIDENT: I have the honor to transmit herewith the following which the Speaker has signed and your signature is respectfully requested:

HB 1233, HB 1247, HCR 3095

ROY GILBREATH, Chief Clerk

## HOUSE CHAMBER

MR. PRESIDENT: I have the honor to inform you that the House has not adopted the conference committee report on HB 1023 and the Speaker has appointed as a new conference committee to act with a like committee from the Senate on:

HB 1023: Reps. Winkelman, Wald, Opedahl

ROY GILBREATH, Chief Clerk

## REPORT OF PROCEDURAL COMMITTEE

MR. SPEAKER: Your procedural Committee on Delayed Bills recommends that the following be introduced:

HB 1687

REP. STRINDEN, Chairman

REP. GOETZ MOVED that the report be adopted, which motion prevailed.

## FIRST READING OF HOUSE BILL

Rep. A. Hausauer introduced:

(Approved by the Committee on Delayed Bills)

HB 1687: A BILL for an Act to create and enact a new section to chapter 57-39.2 and a new section to chapter 57-40.2 of the North Dakota Century Code, relating to refund of a portion of sales or use taxes paid for purchases or use of farm machinery repair parts; to amend and reenact sections 57-39.2-02.1 and 57-40.2-02.1 of the North Dakota Century Code as contained in sections 1 and 4 of Senate Bill No. 2901, as approved by the fiftieth legislative assembly, relating to imposition of sales and use taxes on farm machinery repair parts; and to declare an emergency.

## MOTION

REP. STRINDEN MOVED that the rules be suspended, that HB 1687 not be referred to committee and be placed on the Eleventh order on tomorrow's calendar for second reading and final passage, which motion prevailed.

MESSAGES FROM THE SENATE  
SENATE CHAMBER

MR. SPEAKER: I have the honor to return herewith the following on which the President Pro Tem has signed the veto reconsideration certificate:

HB 1621

PERRY GROTBORG, Secretary

## SENATE CHAMBER

MR. SPEAKER: I have the honor to return herewith the following which the Senate has failed to pass:

HB 1676

PERRY GROTBORG, Secretary

## SENATE CHAMBER

MR. SPEAKER: I have the honor to inform you that the President Pro Tem has appointed as a conference committee to act with a like committee from the House on:

HB 1019: Sens. Waldera, Wogsland, Nelson

PERRY GROTBORG, Secretary

## SENATE CHAMBER

MR. SPEAKER: I have the honor to inform you that the Senate has concurred in the House amendments to SB 2099 and SB 2547 and subsequently passed the same but has refused to concur in the House amendments to SB 2523 and the President Pro Tem has appointed as a conference committee to act with a like committee from the House on:

SB 2523: Sens. Wogsland, Tallackson, Thane

PERRY GROTBORG, Secretary

## SENATE CHAMBER

MR. SPEAKER: I have the honor to transmit herewith the following on which the Senate has adopted the conference committee report and subsequently passed the same:

SB 2035

PERRY GROTBORG, Secretary

## SENATE CHAMBER

MR. SPEAKER: I have the honor to inform you that the President Pro Tem has appointed as a new conference committee to act with a like committee from the House on:

HB 1023: Sens. Shea, Mushik, Lips

PERRY GROTBORG, Secretary

## MOTIONS

REP. C. WILLIAMS MOVED that the House reconsider its action whereby HB 1684 failed to pass, which motion lost on a verification vote.

REP. GOETZ MOVED that the House stand in recess until 1:00 p.m., which motion prevailed.

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

## SIGNING OF BILLS AND RESOLUTIONS

THE CHIEF CLERK ANNOUNCED that the Speaker signed the following:

SB 2404

ROY GILBREATH, Chief Clerk

## MESSAGES TO THE SENATE

## HOUSE CHAMBER

MR. PRESIDENT: I have the honor to return herewith the following which the Speaker has signed:

SB 2404.

ROY GILBREATH, Chief Clerk

## HOUSE CHAMBER

MR. PRESIDENT: I have the honor to inform you that Rep. Haugen will replace Rep. Dorso on the conference committee on SB 2259.

ROY GILBREATH, Chief Clerk

## HOUSE CHAMBER

MR. PRESIDENT: I have the honor to transmit herewith the following on which the House has adopted the conference committee report and subsequently passed the same:

HB 1021

ROY GILBREATH, Chief Clerk

## HOUSE CHAMBER

MR. PRESIDENT: I have the honor to inform you that the House has concurred in the Senate amendments to HB 1677 and subsequently passed the same but has refused to concur in the Senate amendments to HB 1600 and the Speaker has appointed as a conference committee to act with a like committee from the Senate on:

HB 1600: Reps. A. Hausauer, Goetz, Schneider

ROY GILBREATH, Chief Clerk

## HOUSE CHAMBER

MR. PRESIDENT: I have the honor to transmit herewith the following which the House has passed and your favorable consideration is requested on:

HCR 3097

ROY GILBREATH, Chief Clerk

## REPORT OF CONFERENCE COMMITTEE

MR. SPEAKER: Your Conference Committee to which was referred Engrossed SB 2035 has had the same under consideration and recommends that the HOUSE RECEDE from its amendments as found on pages 2199-2201 of the House Journal and that Engrossed SB 2035 be amended as follows:

That the House recede from its amendments to Senate Bill No. 2035, as printed on pages 2199-2201 of the House Journal and pages 1859-1861 of the Senate Journal, and that engrossed Senate Bill No. 2035 be amended as follows:

On page 1 of engrossed bill, line 1, after the words "A BILL" delete the remainder of the bill and insert in lieu thereof the following: "for an Act relating to wetlands; to amend and reenact section 54-35-02.7 of the North Dakota Century Code, relating to the composition of and duties of the Garrison overview committee; to repeal section 61-16.1-52 of the North Dakota Century Code and section 61-16.1-41 of the North Dakota Century Code, as amended by section 5 of chapter 665 of the 1985 Session Laws, relating to drainage permits and closing drains; to provide a penalty; and to provide an effective date.

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

SECTION 1. AMENDMENT. Section 54-35-02.7 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-35-02.7. Garrison diversion overview committee - Duties. The legislative council shall create a legislative council committee entitled the Garrison diversion overview committee. The committee shall consist of the majority and minority leaders and their assistants from the house and senate, the speaker of the house, the president pro tempore of the senate selected at the end of the immediately preceding legislative session, and the chairmen of the house and senate standing committees on natural resources, and the chairmen of the house and senate standing committees on agriculture. If a member of the committee named in this section is unable to serve on the committee, the chairman of the legislative council may appoint another member of the legislative assembly to fill the vacancy. The committee shall be responsible for legislative overview

of the Garrison diversion project and related matters; and for any necessary discussions with adjacent states on water-related topics. Staff services for the committee shall be provided by the legislative council staff. The committee shall report to the legislative council in the same manner as do other interim legislative council committees.

SECTION 2. Legislative policy and intent. It is the policy of the legislative assembly that water is one of North Dakota's most important natural resources, and the protection, development, and management of North Dakota's water resources is essential for the long-term public health, safety, general welfare, and economic security of North Dakota and its citizens.

The legislative assembly finds that agriculture is the most important industry in North Dakota and that agricultural concerns must be accommodated in the protection of wetlands. Wetlands can be hindrance to farming practices. Even though property taxes are generally paid on such lands, wetlands provide limited economic return to the landowner. Wetland policies can obstruct water development and water management projects, and can affect other developments.

The legislative assembly finds that the primary reason wetlands are considered important is because wetlands provide the habitat base for the production and maintenance of waterfowl. The legislative assembly also finds that wetlands can moderate the water flow and have value as natural flood control mechanisms, can aid in water purification by trapping, filtering, and storing sediment and other pollutants and by recycling nutrients, and can serve as ground water recharge and discharge areas. Wetlands also function as nursery areas for numerous aquatic animal species and are habitat for a wide variety of plant and animal species, and provide vital habitat for resident wildlife. Wetlands also can provide scientific, aesthetic, and recreational benefits. The legislative assembly therefore concludes that wetlands should be protected and preserved.

In view of the legislative findings and conclusions of the importance of wetlands, water development and management, and agriculture in North Dakota, it is hereby declared to be the wetlands policy of this state that:

1. Water development and wetland preservation activities should be balanced to protect and accommodate agriculture, water, and wetland interests and objectives.

2. Programs protecting and preserving wetlands shall provide adequate compensation to the landowner and must provide periodic reevaluation of compensation to the landowner. Annual payments are encouraged as an option for landowners.
3. Land, wetland, or water acquisition for waterfowl production areas, wildlife refuges, or other wildlife, waterfowl, or wetland protection purposes may not be acquired through the exercise of the right of eminent domain.
4. When land is removed from the tax base to protect wetlands, replacement payments must be made by the entity which purchases the land so that the amount of money that would otherwise be received in taxes if such land was not removed from the tax base is not diminished.

SECTION 3. Definitions. In sections 2 through 12 of this Act, unless the context or subject matter otherwise provides:

1. "Commission" means the state water commission.
2. "Commissioner" means the commissioner of the game and fish department.
3. "Department" means the game and fish department.
4. "District" means a water resource district.
5. "Manmade wetland" means new or expanded water areas, or any portion thereof, created by excavation, diking, damming, or diversion, and determined by the state engineer and the game and fish commissioner to have material wildlife values.
6. "Person" means any person, firm, partnership, association, corporation, agency, or any other private or governmental organization which includes, but is not limited to, any agency of the United States, a state agency, or any political subdivision of the state.
7. "Replacement wetland" means either restoration of previously drained natural wetland or manmade wetlands which are not used for mitigation for any other project.
8. "Sheetwater" means shallow water from any source that floods land not normally subject to standing water.

9. "State engineer" means the state engineer appointed by the state water commission pursuant to section 61-03-01.
10. "Water resource board" means the water resource district's board of managers.
11. "Wetland" means a natural depressional area that is capable of holding shallow, temporary, intermittent, or permanent water. It shall not include sheetwater.

SECTION 4. Permit to drain waters required - Replacement of wetlands - Downstream impacts - Penalty. Any person, before draining water from a wetland, or any series thereof, which has a watershed area comprising eighty acres [32.37 hectares] or more, shall first secure a permit to do so. The permit application shall be submitted to the state engineer. The state engineer shall refer the application to the water resource district or districts within which is found a majority of the watershed or drainage area of the wetland for consideration and approval, but the state engineer may require that applications proposing drainage of statewide or interdistrict significance be returned to the state engineer for final approval. A permit may not be granted until the state water resources policy has been considered and an investigation discloses that the water which will be drained from the wetland, or any series thereof, will not flood or adversely affect downstream lands. If the investigation shows that the proposed drainage will flood or adversely affect lands of downstream landowners, the water resource board may not issue a permit until flowage easements are obtained. The flowage easements must be filed for record in the office of the register of deeds of the county or counties in which the lands are situated. An owner of land proposing to drain shall undertake and agree to pay the expenses incurred in making the required investigation. In addition to the above requirements of this section, the state engineer and the commissioner must jointly find that the wetland acres proposed to be drained will be replaced by an equal acreage of replacement wetlands, or through debits to the wetland bank as provided in section 6 of this Act, before any permit for drainage can be approved by the state engineer or water resource board. The provisions of this section do not apply to the construction or maintenance of any existing or prospective drain constructed under the supervision of a state or federal agency, as determined by the state engineer, for which mitigation is required as part of such project.

Any person draining, or causing to be drained, water of a wetland, or any series thereof, which has a watershed area comprising eighty acres [32.37 hectares] or more,

without first securing a permit to do so, as provided by this section, is liable for all damage sustained by any person caused by the draining, is guilty of an infraction, and shall be required to restore the wetland so drained in accordance with sections 2 through 12 of this Act. The state engineer may adopt rules for temporary permits for emergency drainage.

SECTION 5. Administration - Rulemaking authority - Guidelines. The state engineer and, where specified, the commissioner shall adopt rules to implement sections 2 through 12 of this Act, including rules for procedure. The rules must be consistent with the following guidelines and the other provisions of sections 2 through 12 of this Act:

1. The requirement that wetlands proposed to be drained must be replaced by an equal acreage of replacement wetlands is not applicable to sheetwater, regardless of the area covered by sheetwater.
2. Purchase, easement, lease, or other acquisition that is necessary to comply with sections 2 through 12 of this Act shall be limited to willing sellers. When land is removed from the tax base to protect wetlands, replacement payments shall be made by the entity which purchases the land so that the amount of money that would otherwise be received in taxes if such land was not removed from the tax base is not diminished.
3. The state engineer and the commissioner shall jointly determine whether the number of replacement wetland acres comply with the replacement requirements of sections 2 through 12 of this Act. The area of a wetland must be jointly determined by the normal water level. It is not necessary to replace wetlands proposed to be drained with restored wetlands of the same type or classification.
4. Any person who proposes to drain a wetland for which a permit is required shall pay ten percent of the cost of acquisition, easement, lease, and construction of replacement wetlands. The other ninety percent must be paid by either federal, state, or private interests, or any combination thereof. Any person may pay more than ten percent if that person desires. The cost of acquisition for replacement acres must be determined by average costs of wetland acres placed in the wetlands bank, as prescribed by the state engineer and the commissioner. Federal,

state, and private wildlife and water entities shall cooperate and work together to locate, make contacts with landowners, do appraisals, and perform other tasks necessary for lease, purchase, or other acquisition to meet the replacement requirements of sections 2 through 12 of this Act.

5. In order to satisfy the replacement of wetlands requirement, manmade wetlands with material wildlife values, or any portion thereof, as determined by the state engineer and the commissioner, are eligible along with restoration of drained natural wetlands to comply with the replacement of wetlands requirement.
6. The replacement of wetlands requirement for each drainage proposal or project must be accomplished with approximately fifty percent of the replacement wetlands being located in the county or contiguous counties in which the proposed drainage is located, and with the other approximately fifty percent of replacement wetlands being located anywhere in this state. If the state engineer and the commissioner jointly find that replacement wetland acres are not available in the county or contiguous counties where the proposed drainage is located, replacement wetlands may be obtained anywhere in the same biotic area.
7. Any purchase, easement, lease, or other acquisition under sections 2 through 12 of this Act may not obstruct the natural or existing flow of water of any natural watercourse or artificial channel to the detriment of any upstream or downstream landowner.

SECTION 6. Wetlands bank. The state engineer and the commissioner shall jointly establish a wetlands bank. The records of acreages of replacement wetlands debited from and credited to such bank must be maintained by the state engineer. The acreages of all replacement wetlands constructed after January 1, 1987, must be carried as a credit in such bank. However, any unauthorized drainage constructed after July 1, 1975, which is closed or restored as a result of final enforcement action pursuant to section 8 of this Act, may not be credited to the wetlands bank. The acreages of all wetlands drained after January 1, 1987, except those projects for which permits were applied for prior to January 1, 1987, must be charged as a debit against acreage credit balances. No more than two thousand five hundred acres may be carried as a debit balance to the wetlands bank, except for drainage of

wetlands for which a permit is not required. Wetlands drained during surface coal mining operations may not be charged as a debt against acreage credit balances.

SECTION 7. Uniform wetlands classification. The state engineer and the commissioner shall establish a uniform classification system of wetlands. All federal, state, and local entities shall follow this classification system when referring to wetlands in this state.

SECTION 8. Closing a noncomplying drain - Notice and hearing - Appeal - Injunction. Only a landowner experiencing flooding or adverse effects from an unauthorized drain constructed before January 1, 1975, may file a complaint with the water resource board. Any person may file a complaint about an unauthorized drain constructed after January 1, 1975. A complaint must be filed on a form made available by the state engineer. Upon receipt of a complaint of unauthorized drainage, the water resource board shall promptly investigate and make a determination of the facts with respect to the complaint. If the board determines that a drain, lateral drain, or ditch has been opened or established by a landowner or tenant contrary to the provisions of this title or any rules or regulations promulgated by the board, the board shall notify the landowner by registered or certified mail at the landowner's post-office address of record. A copy of the notice must also be sent to the tenant, if known. The notice must specify the nature and extent of the noncompliance and shall state that if the drain, lateral drain, or ditch is not closed or filled within such reasonable time as the board shall determine, but not less than thirty days, the board shall procure the closing or filling of the drain, lateral drain, or ditch and assess the cost thereof, or such portion as the board shall determine, against the property of the landowner responsible. The notice must also state that the affected landowner may, within fifteen days of the date the notice is mailed, demand, in writing, a hearing on the matter. Upon receipt of the demand, the board shall set a hearing date within fifteen days from the date the demand is received. In the event of an emergency, the board may immediately apply to the appropriate district court for an injunction prohibiting the landowner or tenant from constructing or maintaining the drain, lateral drain, or ditch and ordering the closure of the illegal drain. Any assessments levied under the provisions of this section must be collected in the same manner as assessments authorized by chapter 61-16.1. If, in the opinion of the board, more than one landowner or tenant has been responsible, the costs may be assessed on a pro rata basis in proportion to the responsibility of the landowners. Any person aggrieved by action of the board under the provisions of this section may appeal the decision of the

board to the district court of the county in which the land is located in accordance with the procedure provided under sections 61-16.1-54 through 61-16.1-57. A hearing as provided for in this section is not a prerequisite to such an appeal.

SECTION 9. Appeal of board decisions - State engineer review - Closing of noncomplying drains. The board shall make the decision required by section 8 of this Act within a reasonable time, but not to exceed one hundred twenty days, after receiving the complaint. The board shall notify all parties of its decision by certified mail. The board's decision may be appealed to the state engineer by any aggrieved party. The appeal to the state engineer must be made within thirty days from the date notice of the board's decision has been received. The appeal must be made by submitting a written notice to the state engineer which must specifically set forth the reason why the board's decision is erroneous. The appealing party shall also submit copies of the written appeal notice to the board and to the nonappealing party. Upon receipt of this notice the board, if it has ordered closure of a drain, lateral drain, or ditch, is relieved of its obligation to procure the closing or filling of the drain, lateral drain, or ditch. The state engineer shall handle the appeal by conducting an independent investigation and making an independent determination of the matter. The state engineer may enter property affected by the complaint for the purpose of investigating the complaint.

If the board fails to investigate and make a determination concerning the complaint within a reasonable time, but not to exceed one hundred twenty days, the person filing the complaint may file such complaint with the state engineer. The state engineer shall, without reference to chapter 28-32, cause the investigation and determination to be made, either by action against the board, or by personally conducting the investigation and personally making the determination.

If the state engineer determines that a drain, lateral drain, or ditch has been opened or established by a landowner or tenant contrary to title 61 or any rules adopted by the board, the state engineer shall take one of three actions:

1. Notify the landowner by registered mail at the landowner's post-office address of record;
2. Return the matter to the jurisdiction of the board along with the investigation report; or
3. Forward the drainage complaint and investigation report to the state's attorney.

If the state engineer decides to notify the landowner, the notice must specify the nature and extent of the noncompliance and must state that if the drain, lateral drain, or ditch is not closed or filled within such reasonable time as the state engineer shall determine, but not less than thirty days, the state engineer shall procure the closing or filling of the drain, lateral drain, or ditch and assess the cost thereof, against the property of the landowner responsible. The notice from the state engineer must state that the affected landowner may, within fifteen days of the date the notice is mailed, demand, in writing, a hearing on the matter. Upon receipt of the demand, the state engineer shall set a hearing date within fifteen days from the date the demand is received. If, in the opinion of the state engineer, more than one landowner or tenant has been responsible, the costs may be assessed on a pro rata basis in proportion to the responsibility of the landowners. Upon assessment of costs, the state engineer shall certify the assessment to the county auditor of the county where the noncomplying drain, lateral drain, or ditch is located. The county auditor shall extend the assessment against the property assessed. Each assessment must be collected and paid as other taxes are collected and paid. Assessments collected must be deposited with the state treasurer and are hereby appropriated out of the state treasury and must be credited to the contract fund established by section 61-02-64.1. Any person aggrieved by action of the state engineer under the provisions of this section may appeal the decision of the state engineer to the district court in accordance with chapter 28-32. A hearing by the state engineer as provided for in this section shall be a prerequisite to such an appeal.

If the state engineer, after completing the investigation required under this section, decides to return the matter to the board, a complete copy of the investigation report shall be forwarded to the board and it shall include the nature and extent of the noncompliance. Upon having the matter returned to its jurisdiction the board shall carry out the state engineer's decision in accordance with the terms of this section.

If the state engineer, after completing the investigation required under this section, decides to forward the drainage complaint to the state's attorney, a complete copy of the investigation report must also be forwarded, which must include the nature and extent of the noncompliance. The state's attorney shall prosecute the complaint in accordance with the statutory responsibilities prescribed in chapter 11-16.

In addition to the penalty imposed by the court in the event of conviction under this statute, the court shall order the drain, lateral drain, or ditch closed or filled

within such reasonable time period as the court determines, but not less than thirty days. If the drain, lateral drain, or ditch is not closed or filled within the time prescribed by the court, the court shall procure the closing or filling of the drain, lateral drain, or ditch, and assess the cost thereof against the property of the landowner responsible, in the same manner as other assessments under chapter 61-16.1 are levied. If, in the opinion of the court, more than one landowner or tenant has been responsible, the costs may be assessed on a pro rata basis in proportion to the responsibility of the landowners.

The authority granted in this section may only be exercised for drainage constructed after January 1, 1987.

SECTION 10. Wetlands replacement fund - Continuing appropriation. There is hereby created a special revolving wetlands replacement fund in the state treasury to which funds received by the commissioner pursuant to sections 2 through 12 of this Act must be deposited. The commissioner is authorized to receive funds for the wetlands replacement fund from any private or public source. The commissioner shall work with the governor, United States fish and wildlife service, nonprofit conservation organizations, and any other public official or private organization or citizen to develop additional funding to implement sections 2 through 12 of this Act. All funds received from any source, not including state revenues, are hereby appropriated to the commissioner, and may be expended for the purpose of implementing sections 2 through 12 of this Act, including acquisition, easement, lease, and construction of replacement wetlands.

SECTION 11. Exemption. The wetland replacement requirements of sections 2 through 12 of this Act do not apply to surface coal mining operations until reclamation of the wetland area begins pursuant to chapter 38-14.1.

SECTION 12. Application of prior law. Sections 2 through 12 of this Act do not apply to drainage applications submitted, or to drainage violations committed, prior to January 1, 1987. Procedures for and prosecutions of such activities are governed by prior law which is continued in effect for that purpose.

SECTION 13. REPEAL. Section 61-16.1-52 of the North Dakota Century Code and section 61-16.1-41 of the North Dakota Century Code, as amended by section 5 of chapter 665 of the 1985 Session Laws are hereby repealed.

SECTION 14. EFFECTIVE DATE. The replacement of wetlands requirement in sections 4 and 5 of this Act does not take effect until July 1, 1989. Until July 1, 1989,

the drainage of type IV and V wetlands, as defined in U.S. fish and wildlife service circular 39 (1971 edition) is not permitted, except for permit applications submitted prior to January 1, 1987, or unless replaced in accordance with the provisions of sections 2 through 12 of this Act."

And renumber the lines, sections, and pages accordingly

**For the Senate:** Sens. W. Meyer, Kelsh, Streibel

**For the House:** Reps. Melby, Vander Vorst, G. Berg (refused to sign)

Engrossed SB 2035 was placed on the Seventh order of business on the calendar for the succeeding legislative day.

#### MOTION

REP. STRINDEN MOVED that the House stand in recess until 2:00 p.m., which motion prevailed.

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

#### MESSAGES FROM THE SENATE SENATE CHAMBER

MR. SPEAKER: I have the honor to transmit herewith the following on which the Senate has adopted the conference committee report and subsequently passed the same:

SB 2183

PERRY GROTEBERG, Secretary

#### SENATE CHAMBER

MR. SPEAKER: I have the honor to inform you that the Senate does not concur in the House amendments to SB 2002 and the President Pro Tem has appointed as a conference committee to act with a like committee from the House on:

SB 2002: Sens. Heinrich, Kelsh, Freborg

PERRY GROTEBERG, Secretary

#### SENATE CHAMBER

MR. SPEAKER: I have the honor to return herewith the following on which the Senate has adopted the conference committee report.

HB 1231

PERRY GROTEBERG, Secretary

#### SENATE CHAMBER

MR. SPEAKER: I have the honor to return herewith the following which the President Pro Tem has signed:

HB 1233, HB 1247, HCR 3095

PERRY GROTEBERG, Secretary

## SENATE CHAMBER

MR. SPEAKER: I have the honor to transmit herewith the following which the President Pro Tem has signed and your signature is respectfully requested:

SB 2542, SCR 4069

PERRY GROTEBERG, Secretary

## REPORT OF CONFERENCE COMMITTEE

MR. SPEAKER: Your Conference Committee to which was referred Engrossed SB 2183 has had the same under consideration and recommends that the HOUSE RECEDE from its amendments as found on page 1912 of the House Journal and that Engrossed SB 2183 be amended as follows:

On page 1 of the engrossed bill, line 1, delete the word "five" and insert in lieu thereof the word "four"

On page 4 of the engrossed bill, delete lines 3 through 12

On page 5 of the engrossed bill, line 8, after the word "commission" insert the words ", after notice and hearing."

And renumber the lines, sections, and pages accordingly

For the Senate: Sens. Maixner, Richard, Moore

For the House: Reps. A. Olson, Kretschmar, J. Nelson

Engrossed SB 2183 was placed on the Seventh order of business on the calendar.

## REPORT OF CONFERENCE COMMITTEE

REP. KRETSCHMAR MOVED that the conference committee report on SB 2183 be adopted, which motion prevailed.

## MOTION

REP. STRINDEN MOVED that the rules be suspended, that SB 2183 be placed on the calendar, as amended, for second reading and final passage, which motion prevailed.

## SECOND READING OF SENATE BILL

SB 2183: A BILL for an Act to create and enact four new sections to chapter 38-08 of the North Dakota Century Code, relating to the powers, rights, and liabilities of the industrial commission in plugging or replugging abandoned wells and the reclamation of well sites; to amend and reenact sections 38-08-04.4 and 38-08-04.5 of the North Dakota Century Code, relating to the industrial commission entering into contracts for the plugging or replugging of wells and site reclamation and the establishment of an abandoned oil and gas well plugging and site reclamation fund; and to provide an appropriation.

Which has been read.

## ROLL CALL

The question being on the final passage of the bill, as amended, the roll was called and there were 96 YEAS, 0 NAYS, 10 ABSENT AND NOT VOTING.

**YEAS:** Aas; Almlie; Belter; Berg, G.; Brokaw; Cleveland; Dalrymple; DeMers, J.; DeMers, P.; Dotzenrod; Enget; Flaagan; Frey; Gates; Gerntholz; Goetz; Gorman; Graba; Gunsch; Halmrast; Hamerlik; Hanson, L.; Hanson, O.; Haugland; Hausauer, A.; Hausauer, R.; Hill; Hoffner; Kelly; Kent; Kingsbury; Klundt; Knell; Knudson; Koland; Kolbo; Kretschmar; Kuchera; Lang; Larson; Laughlin; Lautenschlager; Linderman; Lindgren; Marks; Martin; Melby; Mertens; Meyer; Moore; Murphy; Myrdal; Nelson, C.; Nelson, J.; Nicholas; Nowatzki; Oban; O'Connell; Olsen, D.; Olson, V.; Opedahl; Payne; Peterson; Rice; Riehl; Rydell; Scherber; Schindler; Schneider; Shaft; Shaw; Shide; Shockman; Skjerven; Smette; Solberg; Sorensen; Starke; Strinden; Thompson; Tokach; Tollefson; Tomac; Trautman; Ulmer; Vander Vorst; Wald; Watne; Wentz; Whalen; Wilkie; Williams, A.; Williams, C.; Williams, W.; Winkelman; Speaker Kloubec

**NAYS:** None

**ABSENT AND NOT VOTING:** Anderson; Berg, R.; Christman; Dorso; Haugen; Hokana; Martinson; Olson, A.; O'Shea; Stofferahn

SB 2183 passed and the title was agreed to.

\*\*\*\*\*

## DELIVERY OF ENROLLED RESOLUTION

THE SPEAKER ANNOUNCED that the following resolution was delivered to the Secretary of State for his filing at the hour of 1:50 p.m., April 14, 1987:

HCR 3095

## APPOINTMENT OF CONFERENCE COMMITTEES

THE SPEAKER ANNOUNCED the following appointment to a Conference Committee on SB 2002:

Reps. R. Hausauer, Gates, Hoffner

THE SPEAKER ANNOUNCED the following appointment to a Conference Committee on SB 2523:

Reps. Kingsbury, Peterson, Graba

**MOTION**

**REP. GOETZ MOVED** that the House stand in recess until 3:00 p.m., which motion prevailed.

**THE HOUSE RECONVENED** pursuant to recess taken, with Speaker Kloubec presiding.

**REPORT OF CONFERENCE COMMITTEE**

**MR. SPEAKER:** Your Conference Committee to which was referred HB 1674 has had the same under consideration and recommends that the SENATE RECEDE from its amendments as found on pages 2701-2702 of the House Journal and that HB 1674 be amended as follows:

That the Senate recede from its amendments to House Bill No. 1674, as printed on page 2152 of the Senate Journal and pages 2701-2702 of the House Journal, and that House Bill No. 1674 be amended as follows:

On page 1, line 1, after the words "A BILL" delete the remainder of the bill and insert in lieu thereof the following: "for an Act to authorize the state board of higher education to issue and sell self-liquidating, tax-exempt bonds or utilize private, federal, or other sources of funds for the construction of an aerospace science training facility at the university of North Dakota; to provide an appropriation; and to declare an emergency.

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

**SECTION 1. BOARD OF HIGHER EDUCATION - AUTHORIZATION TO CONSTRUCT AEROSPACE SCIENCE TRAINING FACILITY WITH PRIVATE, FEDERAL, OR OTHER SOURCES OF FUNDS - APPROPRIATION.** The state board of higher education may utilize private, federal, or other sources of funds, including the execution of a loan from the Bank of North Dakota, to construct an aerospace science training facility at the university of North Dakota. There is hereby appropriated to the state board of higher education from any moneys that become available from private, federal, or other sources of funds the sum of \$4,500,000, or so much thereof as may be necessary, for the purpose of constructing an aerospace science training facility at the university of North Dakota for the biennium beginning on the effective date of this Act, and ending June 30, 1989.

**SECTION 2. BOARD OF HIGHER EDUCATION - BOND ISSUANCE - APPROPRIATION.** As an alternative to the funding provided in section 1 of this Act, the state board of higher education, in accordance with chapter 15-55, may issue and sell self-liquidating, tax-exempt bonds in any amount up to but not exceeding \$4,500,000, for the purpose of constructing a revenue-producing aerospace science training facility at the university of North Dakota. Bonds

issued pursuant to this section are not a general obligation of the state of North Dakota. The proceeds resulting from the sale of bonds, or so much thereof as may be necessary, are hereby appropriated for the purpose of constructing an aerospace science training facility at the university of North Dakota for the biennium beginning on the effective date of this Act, and ending June 30, 1989. Any unexpended balances for the sale of bonds authorized by this section must be placed in sinking funds for the retirement of the authorized bonds.

**SECTION 3. EMERGENCY.** This Act is declared to be an emergency measure and is in effect upon its filing with the secretary of state or on a date specified in this Act."

And renumber the lines, sections, and pages accordingly

**For the Senate:** Sens. Shea, Stromme, Streibel

**For the House:** Reps. R. Hausauer, Peterson, Graba

HB 1674 was placed on the Seventh order of business on the calendar.

#### REPORT OF CONFERENCE COMMITTEE

**REP. R. HAUSAUER** MOVED that the conference committee report on HB 1674 be adopted, which motion prevailed.

#### MOTION

**REP. STRINDEN** MOVED that the rules be suspended, that HB 1674 be deemed properly engrossed and placed on the calendar, as amended, for second reading and final passage, which motion prevailed.

#### SECOND READING OF HOUSE BILL

**HB 1674:** A BILL for an Act to authorize the state board of higher education to issue and sell self-liquidating, tax-exempt bonds or utilize private, federal, or other sources of funds for the construction of an aerospace science training facility at the university of North Dakota; to provide an appropriation; and to declare an emergency.

Which has been read.

#### ROLL CALL

The question being on the final passage of the bill, as amended, the roll was called and there were 100 YEAS, 2 NAYS, 4 ABSENT AND NOT VOTING.

**YEAS:** Aas; Almlie; Anderson; Belter; Berg, G.; Berg, R.; Brokaw; Cleveland; Dalrymple; DeMers, J.; DeMers, P.; Dotzenrod; Enget; Flaagan; Frey; Gates; Gerntholz; Goetz; Gorman; Graba; Gunsch; Halmrast; Hamerlik; Hanson, L.; Hanson, O.; Haugen; Haugland; Hausauer, A.; Hausauer, R.; Hill; Hoffner; Hokana; Kelly; Kent; Kingsbury; Klundt; Knell; Knudson; Koland; Kolbo;

Kretschmar; Kuchera; Lang; Larson; Laughlin; Lautenschlager; Linderman; Lindgren; Marks; Martin; Martinson; Melby; Mertens; Meyer; Moore; Murphy; Myrdal; Nelson, C.; Nelson, J.; Nowatzki; O'Connell; Olsen, D.; Olson, A.; Olson, V.; Opedahl; Payne; Peterson; Rice; Riehl; Rydell; Scherber; Schindler; Schneider; Shaft; Shaw; Shide; Shockman; Skjerven; Smette; Solberg; Sorensen; Starke; Stofferahn; Strinden; Thompson; Tokach; Tollefson; Trautman; Ulmer; Vander Vorst; Wald; Watne; Wentz; Whalen; Wilkie; Williams, A.; Williams, C.; Williams, W.; Winkelman; Speaker Kloubec

**NAYS:** O'Shea; Tomac

**ABSENT AND NOT VOTING:** Christman; Dorso; Nicholas; Oban

HB 1674 passed, the title was agreed to, and the emergency clause carried.

\*\*\*\*\*

**MOTION**

REP. STRINDEN MOVED that the House stand in recess until 3:30 p.m., which motion prevailed.

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

**MESSAGE FROM THE SENATE**

**SENATE CHAMBER**

MR. SPEAKER: I have the honor to inform you that the Senate does not concur in the House amendments to SB 2013 and SB 2030 and the President has appointed as a conference committee to act with a like committee from the House on:

SB 2013: Sens. Tallackson, Mushik, Streibel

SB 2030: Sens. Yockim, Shea, Tweten

PERRY GROTEBERG, Secretary

**SIGNING OF BILLS AND RESOLUTIONS**

THE CHIEF CLERK ANNOUNCED that the Speaker signed the following:

SB 2542, SCR 4069

ROY GILBREATH, Chief Clerk

**MESSAGES TO THE SENATE**

**HOUSE CHAMBER**

MR. PRESIDENT: I have the honor to return herewith the following which the Speaker has signed:

SB 2542, SCR 4069

ROY GILBREATH, Chief Clerk

## HOUSE CHAMBER

MR. PRESIDENT: I have the honor to return herewith the following on which the House has adopted the conference committee report and subsequently passed the same:

SB 2183

ROY GILBREATH, Chief Clerk

## HOUSE CHAMBER

MR. PRESIDENT: I have the honor to inform you that the Speaker has appointed as a conference committee to act with a like committee from the Senate on:

SB 2002: Reps. R. Hausauer, Gates, Hoffner

SB 2523: Reps. Kingsbury, Peterson, Graba

ROY GILBREATH, Chief Clerk

## DELIVERY OF ENROLLED BILLS

THE SPEAKER ANNOUNCED that the following bills were delivered to the Governor for his approval at the hour of 3:34 p.m., April 14, 1987:

HB 1233, HB 1247

## REPORT OF CONFERENCE COMMITTEE

MR. SPEAKER: Your Conference Committee to which was referred Engrossed HB 1023 has had the same under consideration and recommends that the SENATE RECEDE from its amendments as found on pages 2964-2969 of the House Journal and that Engrossed HB 1023 be amended as follows:

That the Senate recede from its amendments as found on pages 2143-2146 of the Senate Journal and pages 2694-2696 of the House Journal and that engrossed House Bill No. 1023 be amended as follows:

- On page 1 of the engrossed bill, line 3, after the word "Dakota" insert the words "; to create and enact a new section to chapter 54-52.1 of the North Dakota Century Code, relating to the uniform group health insurance program; and to declare an emergency"
- On page 1 of the engrossed bill, line 14, delete the numerals "851,723" and insert in lieu thereof the numerals "885,644"
- On page 1 of the engrossed bill, line 15, delete the numerals "309,044" and insert in lieu thereof the numerals "314,044"
- On page 1 of the engrossed bill, line 16, delete the numerals "341,022" and insert in lieu thereof the numerals "416,022"
- On page 1 of the engrossed bill, line 19, delete the numerals "1,557,789" and insert in lieu thereof the numerals "1,671,710"

On page 2 of the engrossed bill, delete lines 1 through 8 and insert in lieu thereof the following sections:

"SECTION 3. A new section to chapter 54-52.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

Ownership and confidentiality of the uniform group health insurance medical records of employees, retirees, and dependents. The medical records and related data of the employees, retirees, and dependents, obtained as the result of enrollment in the uniform group insurance program, are the property of the public employees retirement system. The records and data are confidential and are not public records. However, the board may allow administrators of or administrative services only contracts or third-party administrators contracts access to the records and data where it is required in the performance of the administrator's duties pursuant to the contract. No administrator may be held liable for furnishing to the board information with respect to any patient, or any physician, hospital, or other health care provider.

SECTION 4. EMERGENCY. Section 3 of this Act is declared to be an emergency measure and is in effect upon its filing with the secretary of state or on a date specified in this Act."

And renumber the lines, sections, and pages accordingly

#### STATEMENT OF PURPOSE OF AMENDMENT:

##### Public Employees Retirement System

The amendments increase the amount appropriated by \$113,921 analyzed as follows:

	<u>Increase</u>
<u>Salaries and wages</u>	
Reclassify one FTE position to administer cost management programs and reclassify one FTE position to manage all claim paying activities	\$ 33,921
	_____
<u>Operating expenses</u>	
Allow for travel expenses for monitoring investment counselors and for expenses related to the reclassification of cost management people	\$ 5,000
	_____

Data processing

Funding provided for programming costs of the medical cost containment programs and the health insurance program	\$ 75,000
	-----

Total	\$113,921
-------	-----------

In addition to the above amount of \$33,921 included to reclassify positions, the House included \$12,532 for the reclassification of the cost management programs position.

The amendments delete a section which required Budget Section approval before the funds can be spent to reclassify the cost management program position. This section was added by the House.

The amendments create a new section stating that the group health insurance medical records are property of PERS and that the parties handling the medical contracts can have access to those records. This section is an emergency measure.

The amendments reduced the amount of increase provided by the Senate by \$5,400, from \$119,321 to \$113,921. The Senate increased the PERS board chairman's maximum reimbursement from \$50 per day to \$500 per month and provided \$5,400 in operating expenses because of the change. These amendments do not include changing the chairman's reimbursement and the corresponding increase in operating expenses.

For the Senate: Sens. Shea, Mushik, Lips  
For the House: Reps. Winkelman, Wald, Opedahl

Engrossed HB 1023 was placed on the Seventh order of business on the calendar.

## REPORT OF CONFERENCE COMMITTEE

REP. WINKELMAN MOVED that the conference committee report on HB 1023 be adopted, which motion prevailed.

## MOTION

REP. STRINDEN MOVED that the rules be suspended, that HB 1023 be deemed properly reengrossed and placed on the calendar, as amended, for second reading and final passage, which motion prevailed.

## SECOND READING OF HOUSE BILL

HB 1023: A BILL for an Act making an appropriation for defraying the administrative costs of the public employees retirement system of the state of North Dakota; to create and enact a new section to chapter 54-52.1 of the North Dakota Century Code, relating to the uniform group health insurance program; and to declare an emergency.

Which has been read.

## ROLL CALL

The question being on the final passage of the bill, as amended, the roll was called and there were 102 YEAS, 1 NAY, 3 ABSENT AND NOT VOTING.

**YEAS:** Aas; Almlie; Anderson; Belter; Berg, G.; Berg, R.; Brokaw; Cleveland; Dalrymple; DeMers, J.; DeMers, P.; Dotzenrod; Enget; Flaagan; Frey; Gates; Gerntholz; Goetz; Gorman; Graba; Gunsch; Halmrast; Hamerlik; Hanson, L.; Hanson, O.; Haugen; Haugland; Hausauer, A.; Hausauer, R.; Hill; Hoffner; Hokana; Kelly; Kent; Kingsbury; Klundt; Knell; Knudson; Koland; Kolbo; Kretschmar; Kuchera; Lang; Larson; Laughlin; Lautenschlager; Linderman; Lindgren; Marks; Martin; Martinson; Mertens; Meyer; Moore; Murphy; Myrdal; Nelson, C.; Nelson, J.; Nicholas; Nowatzki; Oban; O'Connell; Olsen, D.; Olson, A.; Olson, V.; Opedahl; O'Shea; Payne; Peterson; Rice; Riehl; Rydell; Scherber; Schindler; Schneider; Shaft; Shaw; Shide; Shockman; Skjerven; Smette; Solberg; Sorensen; Starke; Stofferahn; Strinden; Thompson; Tokach; Tollefson; Trautman; Ulmer; Vander Vorst; Wald; Watne; Wentz; Whalen; Wilkie; Williams, A.; Williams, C.; Williams, W.; Winkelman; Speaker Kloubec

**NAYS:** Melby

**ABSENT AND NOT VOTING:** Christman; Dorso; Tomac

HB 1023 passed, the title was agreed to, and the emergency clause carried.

\*\*\*\*\*

## REPORT OF CONFERENCE COMMITTEE

REP. MELBY MOVED that the conference committee report on SB 2035 be adopted.

## REQUEST

REP. MERTENS REQUESTED a recorded roll call vote on the motion to adopt the conference committee report on SB 2035, which request was granted.

REP. FREY MOVED the previous question, which motion prevailed.

## ROLL CALL

The question being on the adoption of the conference committee report on SB 2035, the roll was called and there were 46 YEAS, 57 NAYS, 3 ABSENT AND NOT VOTING.

**YEAS:** Aas; Almlie; Anderson; Berg, R.; Cleveland; Dalrymple; Dotzenrod; Gorman; Gunsch; Halmrast; Hamerlik; Hanson, L.; Hanson, O.; Hausauer, R.; Hoffner; Kent; Klundt; Knell; Koland; Kretschmar;

Kuchera; Lang; Martinson; Melby; Moore; Myrdal; Oban; Olson, A.; Payne; Peterson; Rice; Rydell; Scherber; Schindler; Shaft; Shide; Smette; Starke; Strinden; Thompson; Tollefson; Trautman; Vander Vorst; Wentz; Williams, A.; Speaker Kloubec

**NAYS:** Belter; Berg, G.; Brokaw; DeMers, J.; DeMers, P.; Enget; Flaagan; Frey; Gates; Gerntholz; Goetz; Graba; Haugen; Haugland; Hausauer, A.; Hill; Hokana; Kelly; Kingsbury; Knudson; Kolbo; Larson; Laughlin; Lautenschlager; Linderman; Lindgren; Marks; Martin; Mertens; Meyer; Murphy; Nelson, C.; Nelson, J.; Nicholas; Nowatzki; O'Connell; Olsen, D.; Olson, V.; Opedahl; O'Shea; Riehl; Schneider; Shaw; Shockman; Skjerven; Solberg; Sorensen; Stofferahn; Tokach; Tomac; Ulmer; Wald; Watne; Wilkie; Williams, C.; Williams, W.; Winkelman

**ABSENT AND NOT VOTING:** Christman; Dorso; Whalen

So the motion to adopt the report of the conference committee on SB 2035 failed.

#### APPOINTMENT OF CONFERENCE COMMITTEES

**THE SPEAKER ANNOUNCED** the following appointment to a Conference Committee on SB 2013:

Reps. Gunsch, Kingsbury, Graba

**THE SPEAKER ANNOUNCED** the following appointment to a Conference Committee on SB 2030:

Reps. Kent, Payne, Hill

#### MESSAGES TO THE SENATE

##### HOUSE CHAMBER

**MR. PRESIDENT:** I have the honor to transmit herewith the following on which the House has adopted the conference committee report and subsequently passed the same:

HB 1023

ROY GILBREATH, Chief Clerk

##### HOUSE CHAMBER

**MR. PRESIDENT:** I have the honor to transmit herewith the following on which the House has adopted the conference committee report and subsequently passed the same:

HB 1674

ROY GILBREATH, Chief Clerk

#### REPORT OF STANDING COMMITTEE

**MR. SPEAKER:** A majority of your Committee on Finance and Taxation to which was referred Engrossed SB 2557 has had the same under

consideration and recommends that the same BE AMENDED AS FOLLOWS and when so amended, recommends the same DO PASS:

On page 1 of the engrossed bill, line 1, after the word "Act" insert the words and numerals "to create and enact a new section to chapter 57-39.2, a new section to chapter 57-40.2, a new section to chapter 57-40.3, and a new section to chapter 57-40.5 of the North Dakota Century Code, relating to a separate and additional sales, use, motor vehicle excise, and aircraft excise tax;" and after the word "reenact" insert the words and numerals "section 57-36-32 of the North Dakota Century Code as contained in section 1 of Senate Bill No. 2216, as approved by the fiftieth legislative assembly and"

On page 1 of the engrossed bill, line 4, after the word "on" insert the word "cigarettes," and after the first word "fuels" insert a comma

On page 1 of the engrossed bill, line 5, after the word "subdivisions" insert the words "; and to provide an expiration date"

On page 1 of the engrossed bill, after line 7, insert the following sections:

"SECTION 1. AMENDMENT. Section 57-36-32 of the North Dakota Century Code, as contained in Section 1 of Senate Bill No. 2216, as approved by the fiftieth legislative assembly, is hereby amended and reenacted to read as follows:

57-36-32. Separate and additional tax on the sale of cigarettes - Collection - Allocation of revenue - Tax avoidance prohibited. There is hereby levied and assessed and there shall be collected by the state tax commissioner and paid to the state treasurer, upon all cigarettes sold in this state, an additional tax, separate and apart from all other taxes, of seven eight and one-half mills on each such cigarette, to be collected as existing taxes on cigarettes sold are, or hereafter may be, collected, by use of appropriate stamps and under similar accounting procedures. No person, firm, or corporation shall transport or bring or cause to be shipped into the state of North Dakota any cigarettes as provided herein, other than for delivery to wholesalers in this state, without first paying such tax thereon to the state tax commissioner. All of the moneys collected by the state treasurer under this section shall be credited to the state general fund.

SECTION 2. A new section to chapter 57-39.2 of the North Dakota Century Code is hereby created and enacted to read as follows:

Separate and additional tax on retail sales. There is imposed a tax of one-half of one percent, in addition to any other tax provided by law, upon the gross receipts of retailers from all sales at retail which are taxable under this chapter. In the case of any contract for the construction of highways, roads, streets, bridges, and buildings awarded prior to July 1, 1987, the contractor receiving the award is liable only for the sales tax at the rate of tax in effect on the date of the contract.

SECTION 3. A new section to chapter 57-40.2 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

Separate and additional use tax. An excise tax is imposed on the storage, use, or consumption in this state of tangible personal property purchased at retail for storage, use, or consumption in this state, at the rate of one-half of one percent of the purchase price of the property. An excise tax is imposed on the storage, use, or consumption in this state of tangible personal property not originally purchased for storage, use, or consumption in this state at the rate of one-half of one percent of the fair market value of the property at the time it was brought into this state. The tax imposed under this section applies to any activity that is taxable under this chapter and the tax imposed under this section is in addition to any other tax imposed by law. In the case of any contract for the construction of highways, roads, streets, bridges, and buildings awarded prior to July 1, 1987, the contractor receiving the award is liable only for the use tax at the rate of tax in effect on the date of the contract.

SECTION 4. A new section to chapter 57-40.3 of the North Dakota Century Code is hereby created and enacted to read as follows:

Separate and additional motor vehicle excise tax. There is imposed an excise tax at the rate of one-half of one percent on the purchase price of any motor vehicle purchased or acquired either in or outside of the state of North Dakota for use on the streets and highways of this state and required to be registered under the laws of this state. The tax imposed under this section is in addition to any other tax provided by law.

SECTION 5. A new section to chapter 57-40.5 of the North Dakota Century Code is hereby created and enacted to read as follows:

Separate and additional aircraft excise tax. There is imposed an excise tax at the rate of one-half of one percent on the purchase or lease of any aircraft which is

otherwise taxable under this chapter. The tax imposed by this section is in addition to any other tax provided by law."

On page 2 of the engrossed bill, after line 19, insert the following new section:

"SECTION 9. EXPIRATION DATE. Sections 2, 3, 4, and 5 of this Act are effective for taxable events occurring after June 30, 1987, and before July 1, 1989, and are thereafter ineffective."

And renumber the lines, sections, and pages accordingly

Rep. A. Hausauer  
Rep. Goetz  
Rep. Anderson  
Rep. Belter  
Rep. O. Hanson  
Rep. Martin  
Rep. Moore  
Rep. A. Olson  
Rep. Tollefson

MR. SPEAKER: A minority of your Committee on Finance and Taxation to which was referred Engrossed SB 2557 has had the same under consideration and recommends that the same BE AMENDED AS FOLLOWS and when so amended, recommends the same DO PASS:

On page 1 of the engrossed bill, line 1, after the word "Act" insert the words and numerals "to create and enact a new section to chapter 57-39.2, a new section to chapter 57-40.2, a new section to chapter 57-40.3, and a new section to chapter 57-40.5 of the North Dakota Century Code, relating to a separate and additional sales, use, motor vehicle excise, and aircraft excise tax;" and after the word "reenact" insert the words and numerals "section 57-36-32 of the North Dakota Century Code as contained in section 1 of Senate Bill No. 2216, as approved by the fiftieth legislative assembly, and subsections 7, 8, and 9 of section 57-39.2-01, subdivision b of subsection 1 of section 57-39.2-02.1, subsection 8 of section 57-40.2-01,"

On page 1 of the engrossed bill, line 4, after the word "on" insert the word "cigarettes," and after the first word "fuels" insert a comma

On page 1 of the engrossed bill, line 5, after the word "subdivisions" insert the words "and to imposition of sales and use taxes on cable television and other video programming services; and to provide an expiration date"

On page 1 of the engrossed bill, after line 7, insert the following sections:

"SECTION 1. AMENDMENT. Section 57-36-32 of the North Dakota Century Code, as contained in Section 1 of Senate Bill No. 2216, as approved by the fiftieth legislative assembly, is hereby amended and reenacted to read as follows:

57-36-32. Separate and additional tax on the sale of cigarettes - Collection - Allocation of revenue - Tax avoidance prohibited. There is hereby levied and assessed and there shall be collected by the state tax commissioner and paid to the state treasurer, upon all cigarettes sold in this state, an additional tax, separate and apart from all other taxes, of seven eight and one-half mills on each such cigarette, to be collected as existing taxes on cigarettes sold are, or hereafter may be, collected, by use of appropriate stamps and under similar accounting procedures. No person, firm, or corporation shall transport or bring or cause to be shipped into the state of North Dakota any cigarettes as provided herein, other than for delivery to wholesalers in this state, without first paying such tax thereon to the state tax commissioner. All of the moneys collected by the state treasurer under this section shall be credited to the state general fund.

SECTION 2. AMENDMENT. Subsections 7, 8, and 9 of section 57-39.2-01 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

7. "Retail sale" or "sale at retail" means the sale, including the leasing or renting, to a consumer or to any person for any purpose, other than for processing or for resale, of tangible personal property; the sale of steam, gas, cable television or other video programming services, and communication service to retail consumers or users; the ordering, selecting, or aiding a customer to select any goods, wares, or merchandise from any price list or catalog, which the customer might order, or be ordered for such customer to be shipped directly to such customer; the sale or furnishing of hotel, motel, or tourist court accommodations, tickets, or admissions to any place of amusement, athletic event, or place of entertainment including the playing of any machine for amusement or entertainment in response to the use of a coin; and the sales of magazines and other periodicals. By the term "processing" is meant any tangible personal property including containers which it is intended, by means of fabrication, compounding, manufacturing, producing, or germination shall become an integral or an ingredient, or component part of other tangible personal property intended to be sold ultimately

at retail. The sale of an item of tangible personal property for the purpose of incorporating it in or attaching it to real property shall be considered as a sale of tangible personal property for a purpose other than for processing; the delivery of possession within the state of North Dakota of tangible personal property by a wholesaler or distributor to an out-of-state retailer who does not hold a North Dakota retail sales tax permit or to a person who by contract incorporates such tangible personal property into, or attaches it to, real property situated in another state shall not be considered a taxable sale if such delivery of possession would not be treated as a taxable sale in that state. As used in this subsection the word "consumer" shall include any hospital, infirmary, sanatorium, nursing home, home for the aged, or similar institution that furnishes services to any patient or occupant. The sale of an item of tangible personal property to a purchaser who rents or leases it to a person under a finance leasing agreement over the term of which the property will be substantially consumed shall be considered a retail sale if the purchaser elects to treat it as such by paying or causing the transferor to pay the sales tax thereon to the commissioner on or before the last day on which payments may be made without penalty as provided in section 57-39.2-12.

8. "Retailer" includes every person engaged in the business of leasing or renting hotel, motel, or tourist court accommodations, and every person engaged in the business of selling tangible goods, wares, or merchandise at retail, or furnishing of steam, gas, cable television or other video programming services, and communication services, or tickets or admissions to places of amusement, entertainment, and athletic events including the playing of any machine for amusement or entertainment in response to the use of a coin, or magazines, or other periodicals; and shall include any person as herein defined who by contract or otherwise agrees to furnish for a consideration a totally or partially finished product consisting in whole or in part of tangible personal property subject to the sales tax herein provided, and all items of tangible personal property entering into the performance of such contract as a component part of the product agreed to be furnished under said contract shall be subject to the sales tax herein provided and the sales tax thereon shall be

collected by the contractor from the person for whom the contract has been performed in addition to the contract price agreed upon, and shall be remitted to the state in the manner provided in this chapter; and shall include the state or any municipality furnishing steam, gas, or communication service to members of the public in its proprietary capacity. For the purpose of this chapter, retailer shall also include every clerk, auctioneer, agent, or factor selling tangible personal property owned by any other retailer.

9. "Sale" means any transfer of title or possession, exchange or barter, conditional or otherwise, in any manner or by any means whatever, for a consideration, and includes the furnishing or service of steam, gas, cable television or other video programming services, or communication, the furnishing of hotel, motel, or tourist court accommodations, the furnishing of tickets or admissions to any place of amusement, athletic event, or place of entertainment including the playing of any machine for amusement or entertainment in response to the use of a coin, and sales of magazines and other periodicals. Provided, the words "magazines and other periodicals" as used in this subsection do not include newspapers nor magazines or periodicals that are furnished free by a nonprofit corporation or organization to its members or because of payment by its members of membership fees or dues.

**SECTION 3. AMENDMENT.** Subdivision b of subsection 1 of section 57-39.2-02.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

- b. The furnishing or service of gas, cable television or other video programming services, communication services, or steam other than steam used for processing agricultural products.

**SECTION 4.** A new section to chapter 57-39.2 of the North Dakota Century Code is hereby created and enacted to read as follows:

Separate and additional tax on retail sales. There is imposed a tax of one-half of one percent, in addition to any other tax provided by law, upon the gross receipts of retailers from all sales at retail which are taxable under this chapter. In the case of any contract for the

construction of highways, roads, streets, bridges, and buildings awarded prior to July 1, 1987, the contractor receiving the award is liable only for the sales tax at the rate of tax in effect on the date of the contract.

SECTION 5. AMENDMENT. Subsection 8 of section 57-40.2-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

8. "Tangible personal property" means:
- a. Tangible goods, wares, and merchandise, and gas, cable television or other video programming services, water, and electricity services, when furnished or delivered to consumers or users within this state.
  - b. The leasing or renting of tangible personal property, the sale, storage, use, or consumption of which has not been previously subjected to a retail sales or use tax in this state.
  - c. The purchase of magazines or other periodicals. Provided, the words "magazines and other periodicals" as used in this subdivision do not include newspapers nor magazines or periodicals that are furnished free by a nonprofit corporation or organization to its members or because of payment by its members of membership fees or dues.
  - d. The severance of sand or gravel from the soil.

SECTION 6. A new section to chapter 57-40.2 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

Separate and additional use tax. An excise tax is imposed on the storage, use, or consumption in this state of tangible personal property purchased at retail for storage, use, or consumption in this state, at the rate of one-half of one percent of the purchase price of the property. An excise tax is imposed on the storage, use, or consumption in this state of tangible personal property not originally purchased for storage, use, or consumption in this state at the rate of one-half of one percent of the fair market value of the property at the time it was brought into this state. The tax imposed under this section applies to any activity that is taxable under this chapter and the tax imposed under this section is in addition to any other tax imposed by law. In the case of

any contract for the construction of highways, roads, streets, bridges, and buildings awarded prior to July 1, 1987, the contractor receiving the award is liable only for the use tax at the rate of tax in effect on the date of the contract.

SECTION 7. A new section to chapter 57-40.3 of the North Dakota Century Code is hereby created and enacted to read as follows:

Separate and additional motor vehicle excise tax. There is imposed an excise tax at the rate of one-half of one percent on the purchase price of any motor vehicle purchased or acquired either in or outside of the state of North Dakota for use on the streets and highways of this state and required to be registered under the laws of this state. The tax imposed under this section is in addition to any other tax provided by law.

SECTION 8. A new section to chapter 57-40.5 of the North Dakota Century Code is hereby created and enacted to read as follows:

Separate and additional aircraft excise tax. There is imposed an excise tax at the rate of one-half of one percent on the purchase or lease of any aircraft which is otherwise taxable under this chapter. The tax imposed by this section is in addition to any other tax provided by law."

On page 2 of the engrossed bill, after line 19, insert the following new section:

"SECTION 12. EXPIRATION DATE. Sections 4, 6, 7, and 8 of this Act are effective for taxable events occurring after June 30, 1987, and before July 1, 1989, and are thereafter ineffective."

And renumber the lines, sections, and pages accordingly

Rep. J. DeMers  
Rep. Haugen  
Rep. Linderman  
Rep. Riehl  
Rep. Schneider  
Rep. Tomac  
Rep. Watne  
Rep. W. Williams

REP. A. HAUSAUER, Chairman

The reports of the majority and the minority were placed on the Sixth order of business on the calendar.

## SIXTH ORDER OF BUSINESS

REP. A. HAUSAUER MOVED that the amendments to SB 2557 as recommended by a majority of the Committee on Finance and Taxation be adopted, and when so adopted, recommends the same DO PASS, which motion failed on a verification vote.

REP. A. HAUSAUER MOVED that the amendments to SB 2557 as recommended by a minority of the Committee on Finance and Taxation be adopted, and when so adopted, recommends the same DO PASS.

## REQUEST

REP. STRINDEN REQUESTED the unanimous consent of the House to amend the proposed minority committee report on SB 2557, which request was granted.

## MOTION

REP. STRINDEN MOVED that the proposed minority committee report on SB 2557 be amended as follows:

## PROPOSED FLOOR AMENDMENT TO THE MINORITY REPORT ON SB 2557

Under SECTION 5., Subsection 8., Subdivision a. of the proposed minority amendments, overstrike the first "and" and delete the following: "water and electricity services,"

The motion to adopt the proposed floor amendment to the minority report on SB 2557 prevailed.

The question then was on the motion to adopt the proposed amended minority amendments to SB 2557.

The proposed amended minority amendments to SB 2557 were adopted.

SB 2557, as amended, was placed on the Fourteenth order on the calendar for second reading and final passage.

## SECOND READING OF SENATE BILL

SB 2557: A BILL for an Act to create and enact a new section to chapter 57-39.2, a new section to chapter 57-40.2, a new section to chapter 57-40.3, and a new section to chapter 57-40.5 of the North Dakota Century Code, relating to a separate and additional sales, use, motor vehicle excise, and aircraft excise tax; to amend and reenact section 57-36-32 of the North Dakota Century Code as contained in section 1 of Senate Bill No. 2216, as approved by the fiftieth legislative assembly, and subsections 7, 8, and 9 of section 57-39.2-01, subdivision b of subsection 1 of section 57-39.2-02.1, subsection 8 of section 57-40.2-01, subsection 1 of section 57-43.1-02, subsection 1 of section 57-43.2-02, and section 57-43.2-03 of the North Dakota Century Code, relating to the tax imposed on cigarettes, motor vehicle fuels, and special fuels and a special fuel tax exemption for state and political subdivisions; and to imposition of sales and use taxes on

cable television and other video programming services; and to provide an expiration date.

Which has been read.

#### ROLL CALL

The question being on the final passage of the bill, as amended, the roll was called and there were 75 YEAS, 28 NAYS, 3 ABSENT AND NOT VOTING.

**YEAS:** Aas; Almlie; Anderson; Berg, G.; Berg, R.; Cleveland; DeMers, J.; Dotzenrod; Enget; Flaagan; Frey; Gates; Gerntholz; Goetz; Gorman; Graba; Halmrast; Hanson, L.; Haugland; Hausauer, A.; Hausauer, R.; Hill; Hoffner; Hokana; Kelly; Kent; Kingsbury; Klundt; Knudson; Kolbo; Kretschmar; Kuchera; Larson; Laughlin; Lautenschlager; Linderman; Marks; Martin; Mertens; Meyer; Moore; Myrdal; Nelson, C.; Nelson, J.; Nowatzki; Oban; Olsen, D.; Olson, A.; Olson, V.; Opedahl; Payne; Peterson; Riehl; Scherber; Schneider; Shaft; Shaw; Shide; Shockman; Solberg; Starke; Stofferahn; Strinden; Thompson; Tollefson; Trautman; Ulmer; Vander Vorst; Wald; Whalen; Wilkie; Williams, A.; Williams, W.; Winkelman; Speaker Kloubec

**NAYS:** Belter; Brokaw; Dalrymple; DeMers, P.; Gunsch; Hamerlik; Hanson, O.; Haugen; Knell; Koland; Lang; Lindgren; Martinson; Melby; Murphy; O'Connell; O'Shea; Rice; Rydell; Schindler; Skjerven; Smette; Sorensen; Tokach; Tomac; Watne; Wentz; Williams, C.

**ABSENT AND NOT VOTING:** Christman; Dorso; Nicholas

SB 2557 passed and the title was agreed to.

\*\*\*\*\*

#### MESSAGE TO THE SENATE HOUSE CHAMBER

**MR. PRESIDENT:** I have the honor to inform you that the Speaker has appointed as a conference committee to act with a like committee from the Senate on:

SB 2013: Reps. Gunsch, Kingsbury, Graba

SB 2030: Reps. Kent, Payne, Hill

ROY GILBREATH, Chief Clerk

#### DELIVERY OF ENROLLED BILLS

THE SPEAKER ANNOUNCED that the following bill was delivered to the Secretary of State for his filing at the hour of 11:30 a.m., April 14, 1987:

HB 1621 which has been passed by the House of Representatives over the Governor's veto and on which the

Senate has sustained the Governor's veto. Also delivered with this bill were the Governor's objections and the certificates of the presiding officers of the House of Representatives and the Senate regarding final action of the respective bodies with reference to the Governor's veto.

**MOTIONS**

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

**REP. GOETZ MOVED** that the House stand adjourned until 8:00 a.m., Wednesday, April 15, 1987, which motion prevailed.

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

**ROY GILBREATH, Chief Clerk**