

Third Day of
Legislative Organizational and Special Session

JOURNAL OF THE SENATE

Fiftieth Legislative Assembly

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Bismarck, December 4, 1986

The Senate convened at 9:00 a.m., President Meiers presiding.

The prayer was offered by Reverend Forrest Erickson, Grace Lutheran Brethren Church, Bismarck.

Heavenly Father, we thank You for a new day and for health and strength that allows us to be here this morning. We have been greatly blessed by You, and we are particularly grateful for the freedom to assemble as we are doing today, and for the liberty to participate in the governmental affairs of our state and nation. We pray that this liberty may be preserved in our land.

We also pray for these men and women here today -- the leaders of our state. We ask Your divine guidance and wisdom for them, that they will make wise decisions with respect to the needs and problems we face.

And so we commit the affairs of this day to You, seeking your blessing in all things. May we live and act in such a way that Your name may truly be honored.

In Jesus' name I pray, Amen.

ROLL CALL

The roll was called and all members were present.

A quorum was declared by the President.

MOTION

SEN. HEIGAARD MOVED that a committee of five be appointed to the Committee on Enrollment and Engrossment, which motion prevailed.

THE PRESIDENT APPOINTED Sens. Krauter, Shea, Mathern, Vosper, and Peterson.

MOTIONS

SEN. HEIGAARD MOVED that the Senate stand in recess until 2:00 p.m., which motion prevailed.

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

REVISION AND CORRECTION OF THE JOURNAL

MADAM PRESIDENT: Your Committee on Revision and Correction of the Journal has carefully examined the Journal of the Second day and recommends that the same be corrected as follows and when so corrected, recommends that the same be approved:

On page 29, delete line 27 and insert in lieu thereof: "on page 1, line 16, after the word "Laws" delete the words ", and"

On page 29, after line 32, insert the following:

"REPORT OF PROCEDURAL COMMITTEE

MADAM PRESIDENT: Your Committee on Enrollment and Engrossment respectfully report that they have examined the following bill and find the same correctly engrossed:

SB 2905

SEN. KRAUTER, Chairman

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

On page 31, after line 34, insert the following:

"REPORT OF PROCEDURAL COMMITTEE

MADAM PRESIDENT: Your Committee on Enrollment and Engrossment respectfully report that they have examined the following bill and find the same correctly engrossed:

SB 2902

SEN. KRAUTER, Chairman

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

On page 33, after line 34, insert the following:

"REPORT OF PROCEDURAL COMMITTEE

MADAM PRESIDENT: Your Committee on Enrollment and Engrossment respectfully report that they have examined the following bill and find the same correctly engrossed:

SB 2904

SEN. KRAUTER, Chairman

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

On page 34, line 15, delete the words "the removal of"

On page 37, after line 34, insert the following:

"REPORT OF PROCEDURAL COMMITTEE

MADAM PRESIDENT: Your Committee on Enrollment and Engrossment respectfully report that they have examined the following bill and find the same correctly engrossed:

SB 2901

SEN. KRAUTER, Chairman"

On page 38, after line 31, insert the following:

"FIRST READING OF HOUSE BILLS

HB 1901: A BILL for an Act to amend and reenact section 57-38-29, subsection 2 of section 57-38-30.3, sections 57-38-59, 57-38-60, 57-38-60.1, 57-38-61, and 57-38-62 of the North Dakota Century Code, relating to the rate of income tax on individuals and general income tax withholding and payment of estimated tax for income tax purposes; to repeal section 57-38-58 of the North Dakota Century Code, relating to definitions for withholding purposes; and to provide an effective date.

Was read the first time and referred to the Select Committee on Finance and Taxation.

HB 1902: A BILL for an Act to provide authority to the Grafton State School to transfer excess revenue to San Haven; and to provide an effective date.

Was read the first time and referred to the Select Committee on Appropriations.

HB 1903: A BILL for an Act to create and enact thirteen new sections to chapter 14-09 of the North Dakota Century Code, relating to income withholding for the enforcement of child support obligations; to amend and reenact section 14-09-09.3 of the North Dakota Century Code, relating to income payor's obligations in child support enforcement; to repeal sections 14-09-09.1, 14-09-09.2, 14-09-09.4, 14-09-09.6, 14-09-09.8, and 14-09-09.9 of the North Dakota Century Code, relating to wage assignments for the enforcement of child support and enforcement of out-of-state orders for wage withholding; and to provide an effective date.

Was read the first time and referred to the Select Committee on Social Services and Veterans Affairs".

On page 38, line 33, after the word "that" insert the words "at the conclusion of the Thirteenth order"

SEN. J. MEYER, Chairman

MOTIONS

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

SEN. NETHING MOVED that the rules be suspended and that the Journal be revised and corrected to show that he requested a recorded roll call vote on his motion on page 37, line 27, which motion prevailed.

"ROLL CALL

The question being on the final passage of the proposed minority report amendments to SB 2901, the roll was called and there were 25 YEAS, 28 NAYS, 0 ABSENT AND NOT VOTING.

YEAS: Adams; Bakewell; David; Heinrich; Kelly; Kelsh; Lashkowitz; Lodoen; Meyer, D.; Meyer, W.; Moore; Mutch; Naaden; Nelson; Nething; Peterson; Reiten; Streibel; Tennefos; Thane; Tweten; Vosper; Waldera; Wright; Yockim

NAYS: Axtman; Dotzenrod; Ereborg; Heigaard; Hilken; Holmberg; Ingstad; Keller; Krauter; Langley; Lips; Maixner; Mathern; Maxson; Meyer, J.; Mushik; Nalewaja; Olson; Redlin; Richard; Satrom; Schoenwald; Shea; Stenehjem; Stromme; Tallackson; Todd; Wogsland

ABSENT AND NOT VOTING: None"

The President declared that the revision would be made.

The question was then on the adoption of the report of the Committee on Revision and Correction of the Journal, which motion prevailed.

MOTION

SEN. HEIGAARD MOVED that the Senate stand in recess until 4:15 p.m., which motion prevailed.

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

MESSAGE TO THE HOUSE

SENATE CHAMBER

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

HB 1902

PERRY GROTEBERG, Secretary

REPORT OF SELECT COMMITTEE

MADAM PRESIDENT: Your Select Committee on Appropriations to which was referred HB 1902 has had the same under consideration and recommends that the same DO PASS.

SEN. TALLACKSON, Chairman

SECOND READING OF HOUSE BILL

HB 1902: A BILL for an Act to provide authority to the Grafton State School to transfer excess revenue to San Haven; and to provide an effective date.

Which has been read.

ROLL CALL

The question being on the final passage of the bill, the roll was called and there were 46 YEAS, 1 NAY, 6 ABSENT AND NOT VOTING.

YEAS: Axtman; Bakewell; David; Freborg; Heigaard; Heinrich; Hilken; Holmberg; Ingstad; Keller; Kelsh; Krauter; Langley; Lashkowitz; Lips; Lodoen; Maixner; Mathern; Maxson; Meyer, D.; Meyer, J.; Meyer, W.; Mushik; Mutch; Naaden; Nalewaja; Nelson; Nething; Olson; Peterson; Redlin; Reiten; Schoenwald; Shea; Stenehjem; Streibel; Stromme; Tallackson; Tennefos; Thane; Todd; Tweten; Vosper; Waldera; Wogsland; Yockim

NAYS: Kelly

ABSENT AND NOT VOTING: Adams; Dotzenrod; Moore; Richard; Satrom; Wright

HB 1902 passed and the title was agreed to.

REPORT OF SELECT COMMITTEE

MADAM PRESIDENT: Your Select Committee on Social Services to which was referred HB 1903 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, delete the word "thirteen" and insert in lieu thereof the word "fourteen"
- On page 1 of the engrossed bill, line 7, delete the numerals "14-09-09.6,"
- On page 1 of the engrossed bill, line 15, delete the word "chapter" and insert in lieu thereof the word "Act"
- On page 1 of the engrossed bill, line 17, delete the words "a situation in which an obligor's"
- On page 1 of the engrossed bill, delete lines 18 and 19 and insert in lieu thereof the words "not paid in full within fifteen days of the date the child support was ordered to be paid."
- On page 2 of the engrossed bill, after line 18, insert the following new section:

"SECTION 3. A new section to chapter 14-09 of the North Dakota Century Code is hereby created and enacted to read as follows:

Provision of notice of impact of Act to obligors. Each decree or judgment issued by a court in this state which includes an order for support of minor children must include a statement that a delinquency in payment of the support due will result in an income withholding order being issued in accordance with this Act."

On page 3 of the engrossed bill, line 21, immediately after the underscored comma insert the words "or excusable neglect beyond the control of the obligor,"

On page 7 of the engrossed bill, line 21, delete the word "chapter" and insert in lieu thereof the word "Act"

On page 10 of the engrossed bill, line 14, delete the numerals "14-09-09.6,"

And renumber the lines, sections, and pages accordingly
SEN. J. MEYER, Chairman

HB 1903 was placed on the Sixth order of business on the calendar.

The amendments to HB 1903 passed.

SECOND READING OF HOUSE BILL

HB 1903: A BILL for an Act to create and enact thirteen new sections to chapter 14-09 of the North Dakota Century Code, relating to income withholding for the enforcement of child support obligations; to amend and reenact section 14-09-09.3 of the North Dakota Century Code, relating to income payor's obligations in child support enforcement; to repeal sections 14-09-09.1, 14-09-09.2, 14-09-09.4, 14-09-09.6, 14-09-09.8, and 14-09-09.9 of the North Dakota Century Code, relating to wage assignments for the enforcement of child support and enforcement of out-of-state orders for wage withholding; and to provide an effective 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 50 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING.

YEAS: Adams; Axtman; Bakewell; David; Dotzenrod; Freborg; Heigaard; Heinrich; Hilken; Holmberg; Ingstad; Keller; Kelly; Kelsh; Krauter; Lashkowitz; Lips; Lodoen; Maixner; Mathern; Meyer, D.; Meyer, J.; Moore; Mushik;

Mutch; Naaden; Nalewaja; Nelson; Nething; Olson; Peterson; Redlin; Reiten; Richard; Satrom; Schoenwald; Shea; Stenehjerm; Streibel; Stromme; Tallackson; Tennefos; Thane; Todd; Tweten; Vosper; Waldera; Wogsland; Wright; Yockim

NAYS: Langley; Maxson; Meyer, W.

ABSENT AND NOT VOTING: None

HB 1903 passed and the title was agreed to.

MOTIONS

SEN. MAIXNER MOVED that the votes by which HB 1902 and HB 1903 passed be reconsidered and the motion to reconsider be laid on the table, which motion prevailed.

SEN. MAIXNER MOVED that HB 1902 and HB 1903 be messaged to the House, which motion prevailed.

**MESSAGE TO THE HOUSE
SENATE CHAMBER**

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

The vote was 50 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING, and your favorable consideration is requested.

HB 1903

PERRY GROTBORG, Secretary

**MESSAGES FROM THE HOUSE
HOUSE CHAMBER**

MADAM PRESIDENT: I have the honor to return herewith the following which the House has failed to pass:

SB 2905

ROY GILBREATH, Chief Clerk

HOUSE CHAMBER

MADAM PRESIDENT: I have the honor to return herewith the following which the House has passed unchanged:

SB 2901, SB 2902, SB 2903

ROY GILBREATH, Chief Clerk

HOUSE CHAMBER

MADAM PRESIDENT: I have the honor to return herewith SB 2904 which the House has amended and subsequently passed the same:

HOUSE FLOOR AMENDMENT ADOPTED TO ENGROSSED SB 2904
REP. STRINDEN MOVED that that portion of the proposed committee amendment that reads "1. The director of the office of management and budget shall consult the tax commissioner and state treasurer prior to March 10, 1987" be amended as follows, which motion prevailed.

Delete the word "March" and insert in lieu thereof the word "June"

HOUSE AMENDMENTS TO ENGROSSED SB 2904

- On page 1 of the engrossed bill, line 6, after the word "pupil" insert the words "; to provide for a contingent appropriation"
- On page 1 of the engrossed bill, line 21, delete the numerals "264,000" and insert in lieu thereof "5,264,000"
- On page 2 of the engrossed bill, line 25, overstrike the word "four" and insert immediately thereafter the word "three" and delete the word "ten" and insert in lieu thereof the word "seventy"
- On page 2 of the engrossed bill, after line 35, insert the following new section:

"SECTION 5. CONTINGENT APPROPRIATION.

1. The director of the office of management and budget shall consult the tax commissioner and state treasurer prior to March 10, 1987, and determine general fund revenue receipts for the period from July 1, 1985, through May 31, 1987, utilizing usual state accounting practices. The director of the office of management and budget shall certify the amount of receipts so determined to the governor on or before June 15, 1987.
2. If the amount certified under subsection 1 exceeds \$894,700,000, the educational support per pupil during the second year of the 1985-87 biennium shall be \$1,410 and there is hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$5,100,000, or so much thereof as may be necessary, to the department of public instruction for the purpose of providing additional per pupil support for the biennium beginning July 1, 1985, and ending June 30, 1987."

And renumber the lines, sections, and pages accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

Department of Public Instruction

The proposed amendment reduces the Department of Public Instruction's general fund appropriation by \$5,000,000. This provides for a \$5,100,000 per pupil payment reduction and a \$164,000 reduction in the department's operations.

This amendment includes a section appropriating \$5,100,000 from the general fund for per pupil payments if total general fund revenues for the 1985-87 biennium through May 31, 1987, exceed \$894,700,000. An additional \$5,100,000 would increase per pupil payments for the 1986-1987 school year by \$40 to \$1,410.

ROY GILBREATH, Chief Clerk

CONSIDERATION OF AMENDMENTS

MADAM PRESIDENT: Your Committee on Finance and Taxation to which was referred HB 1901 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 8, after the word "date" insert the words "and an expiration date"

On page 1 of the engrossed bill, after line 10, insert the following new section:

"SECTION 1. AMENDMENT. Section 57-38-29 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-38-29. Rate of tax on individuals. A tax is hereby imposed upon every individual, to be levied, collected, and paid annually with respect to the taxable income of such individual as defined in this chapter, computed at the following rates:

1. On taxable income not in excess of three thousand dollars, a tax of two and thirty hundredths percent.
2. On taxable income in excess of three thousand dollars and not in excess of five thousand dollars, a tax of three and forty-five hundredths percent.
3. On taxable income in excess of five thousand dollars and not in excess of eight thousand dollars, a tax of four and sixty hundredths percent.
4. On taxable income in excess of eight thousand dollars and not in excess of fifteen thousand

dollars, a tax of five and seventy-five hundredths percent.

5. On taxable income in excess of fifteen thousand dollars and not in excess of twenty-five thousand dollars, a tax of six and ninety hundredths percent.
6. On taxable income in excess of twenty-five thousand dollars and not in excess of thirty-five thousand dollars, a tax of ~~seven~~ eight and five hundredths percent.
7. On taxable income in excess of thirty-five thousand dollars and not in excess of fifty thousand dollars, a tax of ~~eight~~ nine and twenty hundredths percent.
8. On taxable income in excess of fifty thousand dollars, a tax of ~~nine~~ ten and thirty-five hundredths percent."

On page 2 of the engrossed bill, after line 11, insert the following new section:

"SECTION 3. AMENDMENT. Subsection 2 of section 57-38-30.3 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. A tax is hereby imposed for each taxable year upon income earned or received in that taxable year by every resident and nonresident individual, estate, and trust. This tax shall be ~~ten and one-half~~ twelve percent of the individual's, estate's, or trust's adjusted federal income tax liability for the taxable year."

On page 3 of the engrossed bill, line 20, remove the overstrike over the numeral and period "4-"

On page 4 of the engrossed bill, line 10, after the overstruck word "~~request~~" insert the words "Notwithstanding the provisions of subsections 1, 2, and 3 of this section, no amount shall be withheld for any weekly pay period if that amount is less than four dollars or a biweekly or semimonthly pay period if that amount is less than eight dollars or a monthly pay period if that amount is less than sixteen dollars"

On page 8 of the engrossed bill, delete lines 25 and 26 and insert in lieu thereof the following new section:

"SECTION 11. EFFECTIVE DATE - EXPIRATION DATE. This section becomes effective December 8, 1986. Sections 1 and 3 of this Act are effective for the first taxable year beginning after December 31, 1985, and are thereafter ineffective. Sections 2, 4, 5, 6, 7, 8, 9, and 10 of this Act are effective for taxable years beginning after December 31, 1986."

And renumber the lines, sections, and pages accordingly
SEN. SATROM, Chairman

MOTION

SEN. SATROM MOVED that the question be divided on the amendment to HB 1901, which motion prevailed.

REQUEST

SEN. OLSON REQUESTED a recorded roll call vote on the question, which request was granted.

ROLL CALL

The question being on the adoption of the first section of the amendment to HB 1901 which section is all of the proposed amendments to engrossed HB 1901 except lines 18 through 24 on page 2 of the proposed amendments, the roll was called and there were 22 YEAS, 31 NAYS, 0 ABSENT AND NOT VOTING.

YEAS: Axtman; Dotzenrod; Heigaard; Heinrich; Keller; Krauter; Langley; Lips; Maixner; Mathern; Mushik; Nalewaja; Olson; Redlin; Richard; Satrom; Schoenwald; Shea; Stromme; Tallackson; Wogsland; Yockim

NAYS: Adams; Bakewell; David; Freborg; Hilken; Holmberg; Ingstad; Kelly; Kelsh; Lashkowitz; Lodoen; Maxson; Meyer, D.; Meyer, J.; Meyer, W.; Moore; Mutch; Naaden; Nelson; Nething; Peterson; Reiten; Stenehjem; Streibel; Tennefos; Thane; Todd; Tweten; Vosper; Waldera; Wright

ABSENT AND NOT VOTING: None

MOTION

SEN. ADAMS MOVED for reconsideration of the action by which the first part of the divided question on the amendment to HB 1901, which motion prevailed.

REQUEST

SEN. OLSON REQUESTED a recorded roll call vote on the first section of the divided question on the amendment to HB 1901.

It was so ordered.

ROLL CALL

The question being on the first section of the divided question on the amendment to HB 1901, the roll was called and there were 21 YEAS, 32 NAYS, 0 ABSENT AND NOT VOTING.

YEAS: Axtman; Dotzenrod; Heigaard; Heinrich; Keller; Kelsh; Krauter; Langley; Maixner; Mathern; Meyer, J.; Mushik; Redlin; Richard; Satrom; Schoenwald; Shea; Stromme; Tallackson; Wogsland; Yockim

NAYS: Adams; Bakewell; David; Freborg; Hilken; Holmberg; Ingstad; Kelly; Lashkowitz; Lips; Lodoen; Maxson; Meyer, D.; Meyer, W.; Moore; Mutch; Naaden; Nalewaja; Nelson; Nething; Olson; Peterson; Reiten; Stenehjem; Streibel; Tennefos; Thane; Todd; Tweten; Vosper; Waldera; Wright

ABSENT AND NOT VOTING: None

REQUEST

SEN. OLSON REQUESTED a recorded roll call vote on the adoption of the second section of the amendment to HB 1901.

It was so ordered.

ROLL CALL

The question being on the adoption of the second section of the amendment to HB 1901, all of the lines 18 through 24 on page 2 of the proposed amendments to engrossed HB 1901, the roll was called and there were 10 YEAS, 43 NAYS, 0 ABSENT AND NOT VOTING.

YEAS: Adams; Bakewell; David; Meyer, D.; Mutch; Olson; Peterson; Tennefos; Tweten; Vosper

NAYS: Axtman; Dotzenrod; Freborg; Heigaard; Heinrich; Hilken; Holmberg; Ingstad; Keller; Kelly; Kelsh; Krauter; Langley; Lashkowitz; Lips; Lodoen; Maixner; Mathern; Maxson; Meyer, J.; Meyer, W.; Moore; Mushik; Naaden; Nalewaja; Nelson; Nething; Redlin; Reiten; Richard; Satrom; Schoenwald; Shea; Stenehjem; Streibel; Stromme; Tallackson; Thane; Todd; Waldera; Wogsland; Wright; Yockim

ABSENT AND NOT VOTING: None

REQUEST

SEN. LIPS REQUESTED that he be allowed to change his vote from "nay" to "yea", which request was granted.

MOTION

SEN. HEIGAARD MOVED the Senate stand adjourned until 9:00 a.m., December 5, 1986.

PERRY GROTEBERG, Secretary