

JOURNAL OF THE SENATE

Fifty-first Legislative Assembly

* * * * *

Bismarck, April 7, 1989

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

The prayer was offered by Rev. Ron Burris, Church of the Nativity, Fargo.

Creator God, we pause at the beginning of our day to invoke Your divine presence. You have created us in diversity and thus we come together with differing perspectives on many issues. We pray Your spirit of wisdom to be with the Senate this day. May the necessary compromising, in the last days of this session, be done in a spirit of fairness. May the discernment of those in conference committees produce work that will be the heart, mind, and voice of a people committed to justice.

We pray too, in gratitude, for the willing service of the men and women of this great body - the North Dakota Senate. Amen.

The roll was called and all Senators were present, except Senators David, Keller, Lashkowitz, Maixner, W. Meyer, Mutch, Nething, Peterson, Richard, Satrom, and Stenehjem.

A quorum was declared by the President.

DOCTOR OF THE DAY SCHEDULE

April 10:	Timothy W. Hockenberry, MD - FP Resident	Grand Forks
April 11:	Timothy W. Hockenberry, MD - FP Resident	Grand Forks
April 12:	Timothy W. Hockenberry, MD - FP Resident	Grand Forks
April 13:	Howard J. Eliason, DO - Family Practice	Beulah

MOTION

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

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

PRESENTATION OF PETITIONS AND COMMUNICATIONS

State of North Dakota
OFFICE OF THE GOVERNOR
Bismarck

April 7, 1989

The Honorable Lloyd B. Omdahl
President of the Senate
Senate Chamber
State Capitol
Bismarck, North Dakota 58505

Dear Mr. President:

This is to inform you that on April 6, 1989, I signed the following: SB 2043, SB 2045, SB 2079, SB 2098, SB 2121, SB 2141, SB 2176, SB 2178, SB 2218, SB 2220, SB 2231, SB 2251, SB 2296, SB 2306, SB 2314, SB 2365, SB 2372, SB 2398, SB 2410, SB 2416, SB 2440, SB 2449, SB 2497, SB 2532, SB 2458.

Sincerely,

GEORGE A. SINNER
Governor

MESSAGE to the HOUSE from the SENATE (Patricia Conrad, Secretary)
MR. SPEAKER: The Senate has concurred in the House amendments to SB 2009 and SB 2026 and subsequently passed the same.

CONSIDERATION OF AMENDMENTS

SEN. TALLACKSON MOVED that the amendments to HB 1578 as recommended by the Committee on Appropriations as printed on pages 1570-1571 of the Senate Journal be adopted, and when so amended, recommends the same BE PLACED ON THE CALENDAR WITHOUT RECOMMENDATION, which motion prevailed.

SECOND READING OF HOUSE BILL

HB 1578: A BILL for an Act to create a North Dakota leadership in educational administration development center, establish a board of directors, and to provide for the powers and duties of the board of directors.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 14 YEAS, 26 NAYS, 13 ABSENT AND NOT VOTING.

YEAS: Heigaard; Hilken; Holmberg; Ingstad; Langley; Maixner; Mushik; O'Connell; Olson; Satrom; Schoenwald; Stenehjem; Stromme; Tallackson

NAYS: David; Dotzenrod; Ewen; Heinrich; Kelsh; Krauter; Lips; Lodoen; Mathern; Maxson; Meyer, D.; Meyer, J.; Moore; Nalewaja; Nelson; Nething; Peterson; Richard; Robinson; Shea; Streibel; Thane; Todd; Waldera; Wogsland; Yockim

ABSENT AND NOT VOTING: Axtman; Freborg; Hanson; Keller; Kinnoin; Krebsbach; Lashkowitz; Meyer, W.; Mutch; Naaden; Redlin; Tennefos; Vosper

HB 1578 lost.

MESSAGE to the SENATE from the HOUSE (Roy Gilbreath, Chief Clerk)
MR. PRESIDENT: The House has adopted the conference committee report on HB 1041 and HB 1320 and subsequently passed the same.

REPORTS OF CONFERENCE COMMITTEES

MR. PRESIDENT: Your Conference Committee to which was referred Engrossed HB 1041 has had the same under consideration and recommends that the SENATE RECEDE from the Senate amendments as found on pages 1264-1265 of the Senate Journal and that Engrossed HB 1041 be amended as follows:

Page 1, line 6, after the second "facilities" insert "; to provide an appropriation; and to declare an emergency"

Page 2, line 13, replace "Two" with "One" and replace "members" with "member"

Page 2, line 21, replace "rural" with "North Dakota association of" and replace "industry" with "cooperatives"

Page 2, after line 24, insert:

"9. A school board member, appointed by the governor.

10. A school administrator, appointed by the governor.

11. A school teacher, appointed by the governor."

Page 3, line 5, overstrike the first "two" and insert immediately thereafter "three" and overstrike the second "two" and insert immediately thereafter "three"

Page 3, line 8, after the period insert "At all times either the school board member or the school administrator must be from a school with an enrollment of less than five hundred students."

Page 3, line 10, replace "of the council" with ", the school board member, the school administrator, and the school teacher"

Page 3, line 16, replace "divided among" with "paid by" and remove ", the"

Page 3, remove line 17

Page 3, line 18, remove "budget, and the board of higher education"

Page 5, after line 21, insert:

"SECTION 7. APPROPRIATION. There is hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$2,500, or so much thereof as may be necessary, to the superintendent of public instruction for the purpose of reimbursing the necessary expenses of certain members of the North Dakota educational telecommunications council, for the biennium beginning July 1, 1989, and ending June 30, 1991.

SECTION 8. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

For the Senate: Sens. Kelsch, Heinrich, Peterson

For the House: Reps. Rydell, Kloubec, Brokaw

Engrossed HB 1041 was placed on the Seventh order of business on the calendar for the succeeding legislative day.

MR. PRESIDENT: Your Conference Committee to which was referred Engrossed HB 1320 has had the same under consideration and recommends that the HOUSE ACCEDE to the Senate amendments as found on page 1349 of the Senate Journal.

For the Senate: Sens. Maxson, J. Meyer, Stenehjem
 For the House: Reps. Shaft, Urlacher, Ring (refused to sign)

Engrossed HB 1320 was placed on the Seventh order of business on the calendar for the succeeding legislative day.

CONSIDERATION OF AMENDMENTS

SEN. SATROM MOVED that the amendments to SB 2536 as recommended by the Committee on Finance and Taxation as printed on pages 1653-1654 of the Senate Journal be adopted, and when so amended, recommends the same DO PASS, which motion prevailed.

SECOND READING OF SENATE BILLS

SB 2536: A BILL for an Act to amend and reenact section 57-51-03 of the North Dakota Century Code, relating to the gross production tax being a real property tax.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 41 YEAS, 0 NAYS, 12 ABSENT AND NOT VOTING.

YEAS: David; Dotzenrod; Ewen; Heigaard; Heinrich; Hilken; Holmberg; Ingstad; Kelsh; Krauter; Langley; Lips; Lodoen; Maixner; Mathern; Maxson; Meyer, D.; Meyer, J.; Moore; Mushik; Nalewaja; Nelson; Nething; O'Connell; Olson; Peterson; Richard; Robinson; Satrom; Schoenwald; Shea; Stenehjem; Streibel; Stromme; Tallackson; Tennefos; Thane; Todd; Waldera; Wogsland; Yockim

NAYS: None

ABSENT AND NOT VOTING: Axtman; Freborg; Hanson; Keller; Kinnoin; Krebsbach; Lashkowitz; Meyer, W.; Mutch; Naaden; Redlin; Vosper

SB 2536 passed and the title was agreed to.

SB 2309: A BILL for an Act to provide for grants to oil and gas development impacted counties and cities; to provide a continuing appropriation; and to provide an expiration date.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 46 YEAS, 0 NAYS, 7 ABSENT AND NOT VOTING.

YEAS: Axtman; David; Dotzenrod; Ewen; Hanson; Heigaard; Heinrich; Hilken; Holmberg; Ingstad; Keller; Kelsh; Krauter; Krebsbach; Langley; Lips; Lodoen; Maixner; Mathern; Maxson; Meyer, D.; Meyer, J.; Moore; Mushik; Nalewaja; Nelson; Nething; O'Connell; Olson; Peterson; Richard; Robinson; Satrom; Schoenwald; Shea; Stenehjem; Streibel; Stromme; Tallackson; Tennefos; Thane; Todd; Vosper; Waldera; Wogsland; Yockim

NAYS: None

ABSENT AND NOT VOTING: Freborg; Kinnoin; Lashkowitz; Meyer, W.; Mutch; Naaden; Redlin

SB 2309 passed and the title was agreed to.

MESSAGE to the SENATE from the HOUSE (Roy Gilbreath, Chief Clerk)
MR. PRESIDENT: The House does not concur in the Senate amendments to HB 1021 and the Speaker has appointed as a conference committee to act with a like committee from the Senate on:

HB 1021: Reprs. O. Hanson, K. Thompson, Nowatzki

MESSAGE to the SENATE from the HOUSE (Roy Gilbreath, Chief Clerk)
MR. PRESIDENT: The Speaker has appointed as a conference committee to act with a like committee from the Senate on:

SB 2237: Reprs. Dorso, Shide, Enget

SECOND READING OF HOUSE CONCURRENT RESOLUTIONS
ON CONSENT CALENDAR

HCR 3086: A concurrent resolution directing the Legislative Council to study charitable gaming laws and rules and the need to establish a permanent legislative overview committee for charitable gaming issues.

HCR 3089: A concurrent resolution directing the Legislative Council to study the feasibility and desirability of regulating dial-a-porn telephone services.

The question being on the final adoption of the resolutions, which have been read.

The resolutions were declared adopted on a voice vote.

SIGNING OF BILLS and RESOLUTIONS (Patricia Conrad, Secretary)
THE SECRETARY ANNOUNCED that the President signed the following enrolled bills and resolution: HB 1010, HB 1019, HB 1130, HB 1228, HB 1292, HB 1337, HB 1466, HB 1543, HCR 3056.

MESSAGE to the HOUSE from the SENATE (Patricia Conrad, Secretary)
MR. SPEAKER: The President has signed: HB 1010, HB 1019, HB 1130, HB 1228, HB 1292, HB 1337, HB 1466, HB 1543, HCR 3056.

SECOND READING OF HOUSE BILLS

HB 1038: A BILL for an Act to amend and reenact sections 25-02-03 and 25-03.1-04 of the North Dakota Century Code, relating to the purpose of the state hospital and admissions to public treatment facilities.

ROLL CALL

The question being on the final passage of the bill, which has been read and has committee recommendation of DO PASS, the roll was called and there were 50 YEAS, 0 NAYS, 3 ABSENT AND NOT VOTING.

YEAS: Axtman; David; Dotzenrod; Ewen; Freborg; Hanson; Hejgaard; Heinrich; Hilken; Holmberg; Ingstad; Keller; Kelsh; Kinnoin; Krauter; Krebsbach; Langley; Lips; Lodoen; Maixner; Mathern; Maxson; Meyer, D.; Meyer, J.; Meyer, W.; Moore; Mushik; Naaden; Nalewaja; Nelson; Nething; O'Connell;

Olson; Peterson; Richard; Robinson; Satrom; Schoenwald; Shea; Stenehjelm; Streibel; Stromme; Tallackson; Tennefos; Thane; Todd; Vosper; Waldera; Wogsland; Yockim

NAYS: None

ABSENT AND NOT VOTING: Lashkowitz; Mutch; Redlin

HB 1038 passed and the title was agreed to.

HB 1664: A BILL for an Act to create and enact a new subsection to section 32-12.1-02 of the North Dakota Century Code, relating to a definition of state agency; and to amend and reenact sections 32-12.1-05, 32-12.1-07, and 32-12.1-15 of the North Dakota Century Code, relating to liabilities of political subdivisions and participation by state agencies in government subdivisions self-insurance pools.

ROLL CALL

The question being on the final passage of the bill which has been read and has committee recommendation of DO PASS, the roll was called and there were 51 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING.

YEAS: Axtman; David; Dotzenrod; Ewen; Freborg; Hanson; Heigaard; Heinrich; Hilken; Holmberg; Ingstad; Keller; Kelsh; Kinnoin; Krauter; Krebsbach; Langley; Lips; Lodoen; Maixner; Mathern; Maxson; Meyer, D.; Meyer, J.; Meyer, W.; Moore; Mushik; Naaden; Nalewaja; Nelson; Nething; O'Connell; Olson; Peterson; Redlin; Richard; Robinson; Satrom; Schoenwald; Shea; Stenehjelm; Streibel; Stromme; Tallackson; Tennefos; Thane; Todd; Vosper; Waldera; Wogsland; Yockim

NAYS: None

ABSENT AND NOT VOTING: Lashkowitz; Mutch

HB 1664 passed and the title was agreed to.

CONSIDERATION OF AMENDMENTS

SEN. TALLACKSON MOVED that the amendments to HB 1196 as recommended by the Committee on Appropriations as printed on page 1654 of the Senate Journal be adopted, and when so amended, recommends the same DO PASS, which motion prevailed.

SECOND READING OF HOUSE BILL

HB 1196: A BILL for an Act to create and enact a new section to chapter 6-01 of the North Dakota Century Code, relating to the establishment of a special fund designated as the financial institutions regulatory fund; to amend and reenact sections 6-01-17, 6-01-17.1, 6-01-17.2, 6-03-70, 6-05-28, subsections 1, 2, and 4 of section 6-06-08, sections 6-10-06, 7-05-01, 13-03-04, subsection 1 of section 13-03-09, section 13-03.1-05, subsection 1 of section 13-03.1-11, section 13-04.1-04, subdivision a of subsection 1 of section 13-04.1-11, section 13-05-04, subsection 2 of section 13-05-06, subsection 1 of section 51-17-07, and section 51-17-10 of the North Dakota Century Code, relating to the annual assessments, examination fees, investigation fees, and annual

licenses of institutions and associations supervised; to repeal section 6-06-08.1 of the North Dakota Century Code, relating to additional assessments of credit unions; and to provide an effective date.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 46 YEAS, 5 NAYS, 2 ABSENT AND NOT VOTING.

YEAS: Axtman; David; Dotzenrod; Ewen; Freborg; Heigaard; Heinrich; Hilken; Holmberg; Ingstad; Keller; Kelsh; Kinnoin; Krauter; Krebsbach; Lips; Lodoen; Maixner; Mathern; Meyer, D.; Meyer, J.; Moore; Mushik; Naaden; Nalewaja; Nelson; Nething; Olson; Peterson; Redlin; Richard; Robinson; Satrom; Schoenwald; Shea; Stenehjem; Streibel; Stromme; Tallackson; Tennefos; Thane; Todd; Vosper; Waldera; Wogsland; Yockim

NAYS: Hanson; Langley; Maxson; Meyer, W.; O'Connell

ABSENT AND NOT VOTING: Lashkowitz; Mutch

HB 1196 passed and the title was agreed to.

REPORT OF CONFERENCE COMMITTEE

SEN. MAXSON MOVED that the conference committee report on Engrossed SB 2153 as printed on pages 1656-1657 of the Senate Journal be adopted, which motion prevailed.

SECOND READING OF SENATE BILL

SB 2153: A BILL for an Act to create and enact a new section to chapter 1-03 of the North Dakota Century Code, relating to a personal holiday for state employees and the closing of state offices on Christmas Eve.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 51 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING.

YEAS: Axtman; David; Dotzenrod; Ewen; Freborg; Hanson; Heigaard; Heinrich; Hilken; Holmberg; Ingstad; Keller; Kelsh; Kinnoin; Krauter; Krebsbach; Langley; Lips; Lodoen; Maixner; Mathern; Maxson; Meyer, D.; Meyer, J.; Meyer, W.; Moore; Mushik; Naaden; Nalewaja; Nelson; Nething; O'Connell; Olson; Peterson; Redlin; Richard; Robinson; Satrom; Schoenwald; Shea; Stenehjem; Streibel; Stromme; Tallackson; Tennefos; Thane; Todd; Vosper; Waldera; Wogsland; Yockim

NAYS: None

ABSENT AND NOT VOTING: Lashkowitz; Mutch

SB 2153 passed and the title was agreed to.

MOTION

SEN. MAXSON MOVED that SB 2192, SB 2193, and SB 2320, which are on the Seventh order, be laid over one legislative day, which motion prevailed.

REPORT OF CONFERENCE COMMITTEE

SEN. MAXSON MOVED that the conference committee report on Engrossed SB 2256 as printed on page 1657 of the Senate Journal be adopted, which motion prevailed.

SECOND READING OF SENATE BILL

SB 2256: A BILL for an Act to amend and reenact sections 65-01-02, 65-05-02, 65-05-03, 65-05-12, 65-05-13, 65-05-28, and subsection 2 of section 65-13-10 of the North Dakota Century Code, relating to definitions, unusual stress for mental injury claims, impairment, disability, medical services and impairment awards.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 48 YEAS, 2 NAYS, 3 ABSENT AND NOT VOTING.

YEAS: Axtman; David; Dotzenrod; Ewen; Freborg; Hanson; Heigaard; Heinrich; Hilken; Holmberg; Ingstad; Keller; Kelsh; Kinnoin; Krauter; Krebsbach; Langley; Lips; Lodoen; Maixner; Mathern; Maxson; Meyer, D.; Meyer, J.; Meyer, W.; Moore; Mushik; Naaden; Nalewaja; Nelson; Nething; Olson; Peterson; Redlin; Richard; Robinson; Satrom; Shea; Stenehjem; Streibel; Stromme; Tennefos; Thane; Todd; Vosper; Waldera; Wogsland; Yockim

NAYS: O'Connell; Schoenwald

ABSENT AND NOT VOTING: Lashkowitz; Mutch; Tallackson

SB 2256 passed and the title was agreed to.

REPORT OF CONFERENCE COMMITTEE

SEN. KELSH MOVED that the conference committee report on Engrossed SB 2262 as printed on pages 1657-1659 of the Senate Journal be adopted, which motion prevailed.

SECOND READING OF SENATE BILL

SB 2262: A BILL for an Act to declare legislative intent; to create and enact chapter 23-09.2 of the North Dakota Century Code, relating to education of food preparers; to amend and reenact subsections 14 and 15 of section 43-15-10 of the North Dakota Century Code, relating to powers of the state board of pharmacy; and to repeal sections 19-02-13, 19-02-14, 19-02-15, 19-02-16, 19-02-17, 19-02-18, 19-02-19, 19-02-20, 19-02-21, 19-02-22, 19-02-23, and 19-02-24 of the North Dakota Century Code, relating to food and drug regulation.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 49 YEAS, 0 NAYS, 4 ABSENT AND NOT VOTING.

YEAS: Axtman; David; Dotzenrod; Ewen; Freborg; Hanson; Heigaard; Heinrich; Hilken; Holmberg; Ingstad; Keller; Kelsh; Kinnoin; Krauter; Krebsbach; Langley; Lips; Lodoen; Maixner; Mathern; Maxson; Meyer, D.; Meyer, J.; Meyer, W.; Moore; Mushik; Nalewaja; Nelson; Nething; O'Connell; Olson; Peterson; Redlin; Richard; Robinson; Satrom; Schoenwald; Shea;

Stenehjem; Streibel; Stromme; Tennefos; Thane; Todd; Vosper; Waldera; Wogsland; Yockim

NAYS: None

ABSENT AND NOT VOTING: Lashkowitz; Mutch; Naaden; Tallackson

SB 2262 passed and the title was agreed to.

REPORT OF CONFERENCE COMMITTEE

SEN. MATHERN MOVED that the conference committee report on SB 2322 as printed on page 1659 of the Senate Journal be adopted, which motion prevailed.

SECOND READING OF SENATE BILL

SB 2322: A BILL for an Act to amend and reenact section 57-19-06 of the North Dakota Century Code, relating to school district authority to withdraw from special reserve funds; and to provide an expiration date.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 49 YEAS, 0 NAYS, 4 ABSENT AND NOT VOTING.

YEAS: Axtman; David; Dotzenrod; Ewen; Freborg; Hanson; Heigaard; Heinrich; Hilken; Holmberg; Ingstad; Keller; Kelsh; Kinnoin; Krauter; Krebsbach; Langley; Lips; Lodoen; Maixner; Mathern; Maxson; Meyer, D.; Meyer, J.; Meyer, W.; Moore; Mushik; Nalewaja; Nelson; Nething; O'Connell; Olson; Peterson; Redlin; Richard; Robinson; Satrom; Schoenwald; Shea; Stenehjem; Streibel; Stromme; Tennefos; Thane; Todd; Vosper; Waldera; Wogsland; Yockim

NAYS: None

ABSENT AND NOT VOTING: Lashkowitz; Mutch; Naaden; Tallackson

SB 2322 passed and the title was agreed to.

REPORT OF CONFERENCE COMMITTEE

SEN. HANSON MOVED that the conference committee report on SB 2468 as printed on page 1659 of the Senate Journal be adopted, which motion prevailed.

SECOND READING OF SENATE BILL

SB 2468: A BILL for an Act to amend and reenact sections 27-02-05.1, 27-03-01, subsection 1 of section 27-05-30, sections 27-06-01 and 27-20-05 of the North Dakota Century Code, relating to the status of supreme court and district court personnel.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 49 YEAS, 0 NAYS, 4 ABSENT AND NOT VOTING.

YEAS: Axtman; David; Dotzenrod; Ewen; Freborg; Hanson; Heigaard; Heinrich; Hilken; Holmberg; Ingstad; Keller; Kelsh; Kinnoin; Krauter; Krebsbach;

Langley; Lips; Lodoen; Maixner; Mathern; Maxson; Meyer, D.; Meyer, J.; Meyer, W.; Moore; Mushik; Nalewaja; Nelson; Nething; O'Connell; Olson; Peterson; Redlin; Richard; Robinson; Satrom; Schoenwald; Shea; Stenehjem; Streibel; Stromme; Tennefos; Thane; Todd; Vosper; Waldera; Wogsland; Yockim

NAYS: None

ABSENT AND NOT VOTING: Lashkowitz; Mutch; Naaden; Tallackson

SB 2468 passed and the title was agreed to.

MOTIONS

SEN. MAIXNER MOVED that the vote by which SCR 4070, SCR 4074, SB 2173, SB 2187, SB 2291, SB 2304, SB 2335, SB 2536, HCR 3071, HCR 3086, HCR 3089, HB 1039, HB 1123, HB 1124, HB 1152, HB 1351, HB 1455, HB 1507, HB 1510, HB 1196, HB 1038, HB 1664 passed be reconsidered and the motion to reconsider be laid on the table, which motion prevailed.

SEN. MAIXNER MOVED that the rules be suspended and that SCR 4070, SCR 4074, SB 2173, SB 2187, SB 2291, SB 2304, SB 2335, SB 2536, HCR 3071, HCR 3086, HCR 3089, HB 1039, HB 1123, HB 1124, HB 1152, HB 1351, HB 1455, HB 1507, HB 1510, HB 1196, HB 1038, HB 1664 be messaged to the House immediately.

SEN. MAIXNER MOVED that the Senate stand at recess until 1:00 p.m., which motion prevailed.

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

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

MR. PRESIDENT: The House does not concur in the Senate amendments to HB 1626 and the Speaker has appointed as a conference committee to act with a like committee from the Senate on:

HB 1626: Reps. Gunsch, O. Hanson, Laughlin

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

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

SB 2261: Reps. K. Thompson, Payne, Hoffner

MESSAGE to the HOUSE from the SENATE (Patricia Conrad, Secretary)

MR. SPEAKER: The Senate has amended and subsequently passed: HB 1196, HB 1507.

MESSAGE to the HOUSE from the SENATE (Patricia Conrad, Secretary)

MR. SPEAKER: The Senate has passed unchanged: HB 1038, HB 1664, HCR 3022, HCR 3071, HCR 3086, HCR 3089.

MESSAGE to the HOUSE from the SENATE (Patricia Conrad, Secretary)

MR. SPEAKER: The Senate has passed and your favorable consideration is requested on: SCR 4070, SCR 4074.

MESSAGE to the HOUSE from the SENATE (Patricia Conrad, Secretary)

MR. SPEAKER: The Senate has adopted the conference committee report on HB 1039, HB 1123, HB 1124, HB 1351, HB 1510 and subsequently passed the same.

MESSAGE to the HOUSE from the SENATE (Patricia Conrad, Secretary)

MR. SPEAKER: The Senate has adopted the conference committee report on HB 1152.

CORRECTION and REVISION of the JOURNAL (Sen. Axtman, Chairman)

MR. PRESIDENT: Your Committee on Correction and Revision of the Journal has carefully reexamined the Journal of the Sixty-first Day and recommends that it be corrected as follows and when so corrected, recommends that it be approved:

Page 1573, after line 12, insert:

"MESSAGE to the HOUSE from the SENATE (Patricia Conrad, Secretary)

MR. SPEAKER: The Senate has concurred in the House amendments to SB 2497, SB 2500, SB 2532, SCR 4041, and SCR 4047 and subsequently passed the same.

MESSAGE to the HOUSE from the SENATE (Patricia Conrad, Secretary)

MR. SPEAKER: The Senate has concurred in the House amendments to SB 2410, SB 2416, SB 2440, SB 2449, and SB 2462 and subsequently passed the same.

MESSAGE to the HOUSE from the SENATE (Patricia Conrad, Secretary)

MR. SPEAKER: The Senate has concurred in the House amendments to SB 2079, SB 2220, SB 2361, SB 2365, and SB 2398 and subsequently passed the same."

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

CORRECTION and REVISION of the JOURNAL (Sen. Axtman, Chairman)

MR. PRESIDENT: Your Committee on Correction and Revision of the Journal has carefully reexamined the Journal of the Sixty-third Day and recommends that it be corrected as follows and when so corrected, recommends that it be approved:

Page 1631, line 4, remove "; and to declare an"

Page 1631, line 5, remove "emergency"

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

CORRECTION and REVISION of the JOURNAL (Sen. Axtman, Chairman)

MR. PRESIDENT: Your Committee on Correction and Revision of the Journal has carefully examined the Journal of the Sixty-fourth Day and finds it to be correct.

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

MOTION

SEN. MAIXNER MOVED that the Senate stand in recess for five minutes, which motion prevailed.

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

APPOINTMENT OF CONFERENCE COMMITTEES

SEN. KELSH MOVED that the President appoint a committee of three to act with a like committee from the House as a Conference Committee on HB 1058, which motion prevailed.

THE PRESIDENT APPOINTED as a Conference Committee on HB 1058: Sens. Mathern, Heinrich, Peterson.

SEN. D. MEYER MOVED that the President appoint a committee of three to act with a like committee from the House as a Conference Committee on HB 1158, which motion prevailed.

THE PRESIDENT APPOINTED as a Conference Committee on HB 1158: Sens. Tallackson, Ewen, Lips.

SEN. SATROM MOVED that the President appoint a committee of three to act with a like committee from the House as a Conference Committee on HB 1164, which motion prevailed.

THE PRESIDENT APPOINTED as a Conference Committee on HB 1164: Sens. Maixner, Satrom, Moore.

REPORT OF CONFERENCE COMMITTEE

MR. PRESIDENT: Your Conference Committee to which was referred SB 2201 has had the same under consideration and recommends that the SENATE ACCEDE to the House amendments as found on pages 1598-1600 of the Senate Journal.

For the Senate: Sens. Satrom, Dotzenrod, Moore (refused to sign)

For the House: Reps. R. Anderson, A. Hausauer, Hokana (refused to sign)

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

REQUEST

SEN. MOORE REQUESTED that his remarks be printed in the Journal, which request was granted.

SEN. MOORE: Mr. President and members of the Senate, as the report on the conference committee was read, it indicated that I had refused to sign. I am going to vote for this bill, however. I refused to sign because of the amendment from the House which put an emergency clause on this bill. There is absolutely no reason whatsoever that this bill needs an emergency clause. It is not an emergency in the sense that it has to go into effect. It will go into effect just as soon without the emergency clause as it will with the emergency clause. The only thing that will go into effect sooner is that withholding at the higher rate will start upon the Governor's signature, but the total amount of tax that will be collected is exactly the same whether there is or is not an emergency clause. I feel very badly about this. It puts me at a crossroads. I do not want to vote for putting an emergency clause on bills which are not emergencies and for which the purpose of the emergency clause is to interfere with somebody else's rights protected under the Constitution. I realize we have the right to put an emergency clause on, but it should be because the bill itself is an emergency. This one is not. But I am going to vote for this bill because I don't have any other alternative. The bill itself takes a 2/3 vote, so I cannot ask to not get the votes up there to kill the emergency clause because if you kill the emergency clause you kill the bill itself. I cannot divide a conference committee report; I cannot divide the question following a conference committee report, so I have no way of getting a separate vote on the

emergency clause. However, because of the tax structure of the state of North Dakota and its very high dependence upon other taxes, particularly the sales tax, the gasoline taxes are extremely high relative to the other states, and the low reliance upon the income tax, I guess I've got to meet my crossroads and make a decision and I'm going to vote for the bill. This is a twenty-one percent increase in the income tax. I believe I voted for a thirty-five percent increase earlier, so I guess I can vote for this one. I feel very, very badly that we are putting the emergency clause on this bill for the wrong reason.

MOTION

SEN. MAIXNER MOVED that SB 2201 be placed on the calendar, which motion prevailed.

SECOND READING OF SENATE BILL

SB 2201: A BILL for an Act to amend and reenact section 57-38-29, subsections 2 and 6 of section 57-38-30.3, and subsection 2 of section 57-38-31 of the North Dakota Century Code, relating to individual income tax rates and filing methods; to repeal sections 57-38-01.15 and 57-38-34.2 of the North Dakota Century Code, relating to proration and itemization of deductions and filing of separate income tax returns; to provide an effective date; and to declare an emergency.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 39 YEAS, 11 NAYS, 3 ABSENT AND NOT VOTING.

YEAS: Axtman; Dotzenrod; Ewen; Hanson; Heigaard; Heinrich; Hilken; Holmberg; Ingstad; Keller; Kelsh; Krauter; Krebsbach; Langley; Lips; Lodoen; Maixner; Mathern; Maxson; Meyer, J.; Moore; Mushik; Nalewaja; O'Connell; Olson; Peterson; Redlin; Richard; Robinson; Satrom; Schoenwald; Shea; Stenehjem; Stromme; Tallackson; Thane; Waldera; Wogsland; Yockim

NAYS: David; Freborg; Kinnoin; Meyer, D.; Meyer, W.; Nelson; Nething; Streibel; Tennefos; Todd; Vosper

ABSENT AND NOT VOTING: Lashkowitz; Mutch; Naaden

SB 2201 passed, the title was agreed to, and the emergency clause carried.

MOTIONS

SEN. MAIXNER MOVED that the vote by which SB 2201 passed be reconsidered and the motion to reconsider be laid on the table, which motion prevailed.

SEN. MAIXNER MOVED that the rules be suspended and that SB 2201 be messaged to the House immediately, which motion prevailed.

MESSAGE to the HOUSE from the SENATE (Patricia Conrad, Secretary)

MR. SPEAKER: The Senate has adopted the conference committee report on SB 2201 and subsequently passed the same.

MESSAGE to the HOUSE from the SENATE (Patricia Conrad, Secretary)

MR. SPEAKER: The Senate has adopted the conference committee report on SB 2173, SB 2187, SB 2291, SB 2304, and SB 2335 and subsequently passed the same.

MESSAGE to the HOUSE from the SENATE (Patricia Conrad, Secretary)

MR. SPEAKER: The Senate has adopted the conference committee report on HB 1455 and subsequently passed the same.

MESSAGE to the HOUSE from the SENATE (Patricia Conrad, Secretary)

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

HB 1058: Sens. Mathern, Heinrich, Peterson

HB 1158: Sens. Tallackson, Ewen, Lips

HB 1164: Sens. Maixner, Satrom, Moore

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

MR. PRESIDENT: The House has amended and subsequently passed: SB 2001, SB 2002.

HOUSE AMENDMENTS TO ENGROSSED SB 2001

Page 1, line 13, replace "3,862,014" with "3,814,427"

Page 1, line 14, replace "1,714,584" with "1,662,171"

Page 1, line 17, replace "5,711,066" with "5,611,066"

Page 2, line 3, replace "9,653,188" with "9,553,188"

ReNUMBER accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

DEPARTMENT 150 - LEGISLATIVE ASSEMBLY

The Legislative Assembly appropriation is reduced by \$100,000 from the general fund, \$47,587 for salaries and wages and \$52,413 for operating expenses. The \$100,000 reduction will reduce the estimated number of days the 1991 Legislative Assembly will meet by two days.

HOUSE AMENDMENTS TO ENGROSSED SB 2002

Page 1, line 3, remove the second "and" and after "27-07.1-04" insert ", and 27-24-04"

Page 1, line 5, after "courts" insert "and reimbursement for temporary judge appointments"

Page 1, line 16, replace "3,994,941" with "3,900,146"

Page 1, line 17, replace "140,000" with "102,500"

Page 1, line 18, replace "1,265,500" with "1,015,500"

Page 1, line 19, replace "156,000" with "116,000"

Page 1, line 20, replace "295,225" with "271,225"

Page 1, line 22, replace "5,893,666" with "5,447,371"

Page 2, line 2, replace "5,680,366" with "5,234,071"

Page 2, line 5, replace "12,581,553" with "12,211,842"

Page 2, line 6, replace "4,401,961" with "4,001,961"

Page 2, line 7, replace "219,975" with "156,975"

Page 2, line 8, replace "834,082" with "761,082"

Page 2, line 9, replace "18,037,571" with "17,131,860"

Page 2, line 11, replace "17,895,239" with "16,989,528"

Page 2, line 15, replace "212,130" with "176,582"

Page 2, line 16, replace "121,000" with "118,500"

Page 2, line 18, replace "335,130" with "297,082"

Page 2, line 20, replace "275,130" with "237,082"

Page 2, after line 20, insert:

"Subdivision 4.

COUNTY JUDGES' SALARIES

County judges' salaries	\$ 268,403
Total general fund appropriation	\$ 268,403"

Page 2, line 21, replace "23,850,735" with "22,729,084"

Page 2, line 23, replace "24,266,367" with "23,144,716"

Page 3, line 11, replace "sixty-three thousand eight" with "sixty-four thousand four"

Page 3, line 12, replace "seventy-one" with "sixty-three"

Page 3, line 13, replace "seven" with "six"

Page 3, line 14, replace "seventy-seven" with "forty-five", overstrike "and commencing on July 1,", remove "1990", and overstrike the second comma

Page 3, line 15, overstrike "each judge of the supreme court shall receive an annual salary of"

Page 3, line 16, remove "sixty-eight thousand three hundred forty-two"

Page 3, line 17, overstrike "dollars except that the chief justice of the supreme court shall receive an"

Page 3, line 18, overstrike "additional one thousand", remove "nine hundred one", and overstrike "dollars per"

Page 3, line 19, overstrike "annum"

- Page 3, line 24, replace "fifty-eight" with "fifty-nine"
- Page 3, line 25, replace "eight" with "four", replace "fifty" with "sixty-one", and overstrike "and commencing July 1,"
- Page 3, line 26, remove "1990, an annual salary of sixty-two"
- Page 3, line 27, remove "thousand three hundred eighty-one" and overstrike "dollars"
- Page 4, line 5, replace "ninety-five" with "sixteen"
- Page 4, line 6, remove "1989" and overstrike the comma
- Page 4, line 7, replace "and one thousand four hundred seventy-nine dollars" with "1989"
- Page 4, line 8, remove "per annum commencing July 1, 1990"
- Page 4, line 14, remove "as of January 1, 1989"
- Page 4, line 16, after the period insert "An increase in the salary of a county judge to maintain the eighty-five percent ratio to the salary of a district judge takes effect on the January first following the date the district judge's salary increase took effect."
- Page 4, line 19, after the period insert "Of the amount paid to each county judge which is equal to eighty-five percent of the salary paid to a district court judge, the state shall pay ten percent of that amount beginning July 1, 1989."
- Page 4, after line 22, insert:

"SECTION 7. AMENDMENT. Section 27-24-04 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-24-04. Compensation and expenses of persons appointed temporary judge - Reimbursement to counties.

1. A temporary judge appointed as provided in section 27-24-01 ~~shall~~ must receive as compensation for each day of service in the performance of duties under the appointment an amount equal to five percent of the gross monthly salary of a regularly elected or appointed judge of the court in which the temporary judge is to serve, or one-half of that daily compensation for services of one-half day or less. The compensation ~~shall~~ must be paid upon the certificate of the temporary judge that the services were performed for the number of days shown in the certificate, and ~~shall~~ must be paid in the same manner as the salaries of the regularly elected or appointed judges are paid.
2. A temporary judge appointed as provided in section 27-24-01 or assigned as provided in section 27-24-02 to serve outside the county in which the judge resides or maintains an office ~~shall~~ must receive, in addition to daily compensation, reimbursement for travel expenses necessarily incurred in the

performance of duties as temporary judge. The expenses shall must be reimbursed upon the certification by the temporary judge that the expenses were actually incurred, in the same manner as like expenses of regularly elected or appointed judges are paid.

3. The state shall reimburse on a pro rata basis the county or counties for whom a county judge provides judicial services the salary paid to the judge by the county or counties during the period the county judge serves as temporary judge in a district court following appointment under section 27-24-01."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

The amendments decrease the general fund appropriation in the engrossed bill by \$1,121,651. A schedule detailing the changes is as follows:

DEPARTMENT 180 - SUPREME COURT

	Salaries and Wages	Data Processing	Operating Expenses	Equipment	Judges Retirement	Total
Delete 1 staff attorney added in executive budget	\$ (88,558)					\$ (88,558)
Reduce funding to provide justices salary increases of nine percent effective July 1, 1989 (see following schedule)	(22,237)				\$ (8,000)	(30,237)
Change line items for judges retirement reduction relating to Senate changes	16,000				(16,000)	
Provide 50 percent of the increase included in the agencies' request over 1987-89 biennium amount for data processing and equipment		\$ (57,500)		\$ (40,000)		177,500)
Reduced to provide a 10 percent increase in operating expenses over 1987-89 biennium			\$1250,000)			(250,000)
Subtotal	\$ (194,795)	\$ (57,500)	\$(250,000)	\$ (40,000)	\$ (24,000)	\$(1466,295)

DEPARTMENT 185 - DISTRICT COURTS

	Salaries and Wages	Data Processing	Operating Expenses	Equipment	Judges Retirement	Total
Delete 6 FTEs added in executive budget (3 law clerks, two probation officers, and 1 secretary I). This provides 2 FTEs more than the 1987-89 number - 1 secretary II and 1 court reporter II	\$(347,296)					\$(347,296)
Reduce funding to provide judges' salary increases of 7.1 percent effective July 1, 1989 (see following schedule)	(79,410)				\$ (15,457)	(175,415)

	Salaries and Wages	Data Processing	Operating Expenses	Equipment	Judges Retirement	Total
Change line items for judges' retirement reduction relating to Senate changes	\$ 57,543				\$ 157,543	
Reduced to provide a 10 percent increase in operating expenses over 1987-89 amount			\$1400,000			\$1400,000
Reduced to provide a 100 percent increase in equipment over 1987-89 amount				\$ 163,000		163,000
Subtotal	<u>\$1369,711</u>		<u>\$1400,000</u>	<u>\$ 163,000</u>	<u>\$ 173,000</u>	<u>\$1905,711</u>

DEPARTMENT 163 - JUDICIAL CONDUCT COMMISSION

	Salaries and Wages	Data Processing	Operating Expenses	Equipment	Judges Retirement	Total
Delete 1 FTE added in executive budget	\$ (35,548)					\$ (35,548)
Reduce funding for operating expenses			\$ 12,500			12,500
Subtotal	<u>\$ (35,548)</u>		<u>\$ 12,500</u>			<u>\$ (23,048)</u>
<u>County judges' salaries</u>						
Provides for the state to pay portion of county judges' salaries	\$ 268,403					\$ 268,403
Total changes - all general fund	<u>\$ (231,651)</u>	<u>\$ (37,500)</u>	<u>\$ (452,500)</u>	<u>\$ (103,000)</u>	<u>\$ (97,000)</u>	<u>\$ (1,121,651)</u>

The following is a schedule comparing the justices' and judges' present salaries to the salaries contained in Senate Bill No. 2002 as introduced, amended by the Senate, and by these amendments:

	Present Salary	SB 2002 as Introduced	Amended SB 2002 (Senate Version)	Amended Engrossed SB 2002 (House Version) ¹	House Version Increase
Justices	\$59,140	\$70,000	1st yr. \$61,071 2nd yr. 60,342	\$64,445	9%
Chief Justice	60,765	72,000	1st yr. 65,048 2nd yr. 70,243	66,105 ¹	8.0% ¹
District court judges	55,514	65,000	1st yr. 58,850 2nd yr. 62,381	59,441	7.1%
Presiding district judges	56,355	66,600	1st yr. 60,245 2nd yr. 63,040	60,777 ²	6.9% ²

¹Salary effective July 1, 1989.

¹ The Chief Justice's salary is \$1,045 more than the justices' salaries, the same difference as provided in current law.

² The presiding judges' salaries are \$1,516 more than the district judges' salaries, the same difference as provided in current law.

Also, the amendment requires the state to pay 10 percent of the county judges' minimal salaries they are statutorily entitled to, 85 percent of the statutory district court judges' salaries. The proposed amendment appropriates \$268,403 from the general fund during the 1989-91 biennium for the state's portion of the county court judges' salaries.

Also, the amendment removes language added by the Senate that would keep the county court judges' minimum salary at 85 percent of a district court judges' salary as of January 1, 1989, and language is added providing that any county judges' salary increases provided as a result of an increase in the district judges' salaries will take effect on January 1 following the date the district judges' salary increases take effect.

Also, a section is added that requires the state to reimburse counties the salary amount paid to a county judge while serving as a temporary district court judge.

The salaries and wages line item provides for employee salary increases equivalent to those provided in House Bill No. 1005.

The proposed amendments provide for a general fund reduction to the Governor's budget of \$1,483,497.

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

MR. PRESIDENT: The House has failed to pass: SB 2396, SB 2415, SB 2451, SCR 4008.

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

MR. PRESIDENT: The House has amended and subsequently failed to pass: SB 2524.

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

MR. PRESIDENT: The House has unchanged: SB 2017, SB 2096, SB 2128, SB 2384, SB 2395, SB 2528, SCR 4021.

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

MR. PRESIDENT: The House has adopted the conference committee report on HB 1022 and HB 1210 and subsequently passed the same.

REPORTS OF CONFERENCE COMMITTEES

MR. PRESIDENT: Your Conference Committee to which was referred Engrossed HB 1022 has had the same under consideration and recommends that the HOUSE ACCEDE to the Senate amendments as found on pages 1310-1311 of the Senate Journal.

For the Senate: Sens. Shea, Stromme, Lips

For the House: Reps. Wald, Dalrymple, Stofferahn

Engrossed HB 1022 was placed on the Seventh order of business on the calendar for the succeeding legislative day.

MR. PRESIDENT: Your Conference Committee to which was referred Engrossed HB 1210 has had the same under consideration and recommends that the HOUSE ACCEDE to the Senate amendments as found on pages 1192-1193 of the Senate Journal.

For the Senate: Sens. J. Meyer, Stenehjem, Holmberg

For the House: Reps. Shaft, Howard, Ulmer

Engrossed HB 1210 was placed on the Seventh order of business on the calendar for the succeeding legislative day.

MOTION

SEN. MAIXNER MOVED that HB 1641 be moved to the top of the calendar, which motion prevailed.

CONSIDERATION OF AMENDMENTS

SEN. SATROM MOVED that the amendments to HB 1641 as recommended by the Committee on Finance and Taxation as printed on pages 1654-1656 of the Senate Journal be adopted, and when so amended, recommends the same DO PASS, which motion lost.

MOTIONS

SEN. INGSTAD MOVED that HB 1641 be amended as follows:

SEN. HEIGAARD MOVED the previous question, which motion prevailed.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide for a legislative council study of electronic video gaming devices; to create and enact a new subsection to section 53-06.1-07 of the North Dakota Century Code, relating to commingling of pull tab, jar, and charitable gaming ticket games of chance; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subsection to section 53-06.1-07 of the 1987 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

The games of pull tabs, jars, or charitable gaming tickets may be conducted only through use of commingled games.

SECTION 2. LEGISLATIVE COUNCIL STUDY OF ELECTRONIC VIDEO GAMING DEVICES. During the 1989-90 interim, the legislative council shall study the use of electronic video gaming devices to conduct games of chance in North Dakota, with emphasis on the potential for cheating or tampering with electronic video gaming devices. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the fifty-second legislative assembly.

SECTION 3. EFFECTIVE DATE. Section 1 of this Act becomes effective on January 1, 1990."

Renumber accordingly

REQUEST

SEN. TENNEFOS REQUESTED a recorded roll call vote on the motion to adopt the proposed amendments to engrossed HB 1641, which request was granted.

ROLL CALL

The question being on the motion to adopt the proposed amendments to HB 1641, the roll was called and there were 19 YEAS, 31 NAYS, 3 ABSENT AND NOT VOTING.

YEAS: Axtman; Freborg; Hanson; Hilken; Ingstad; Lips; Lodoen; Mathern; Moore; Nalewaja; Nelson; Nething; O'Connell; Redlin; Streibel; Stromme; Tennefos; Thane; Vosper

NAYS: David; Dotzenrod; Ewen; Heigaard; Heinrich; Holmberg; Keller; Kelsh; Kinnoin; Krauter; Krebsbach; Langley; Maixner; Maxson; Meyer, D.; Meyer, J.; Meyer, W.; Mushik; Olson; Peterson; Richard; Robinson; Satrom; Schoenwald; Shea; Stenehjem; Tallackson; Todd; Waldera; Wogsland; Yockim

ABSENT AND NOT VOTING: Lashkowitz; Mutch; Naaden

The proposed amendments to HB 1641 lost.

SECOND READING OF HOUSE BILL

HB 1641: A BILL for an Act to create and enact a new subdivision to subsection 5 of section 12.1-28-02, a new subsection to section 53-06.1-01, a new subsection to section 53-06.1-07, and two new sections to chapter 53-06.1 of the North Dakota Century Code, relating to electronic video gaming devices, coin-operated gaming devices, and commingling of pull tab and jar games of chance; to amend and reenact sections 53-06.1-07, 53-06.1-07.1, 53-06.1-12, 53-06.1-14, 53-06.1-16.1, and 53-06.1-17 of the North Dakota Century Code, relating to pull tabs, jars, punchboards, and electronic video gaming devices; to provide a penalty; and to provide an effective date.

ROLL CALL

The question being on the final passage of the bill, which has been read, the roll was called and there were 28 YEAS, 22 NAYS, 3 ABSENT AND NOT VOTING.

YEAS: David; Dotzenrod; Heigaard; Heinrich; Holmberg; Kelsh; Krauter; Krebsbach; Langley; Maixner; Maxson; Meyer, D.; Meyer, J.; Meyer, W.; Mushik; Olson; Richard; Robinson; Satrom; Schoenwald; Shea; Stenehjem; Tallackson; Thane; Todd; Waldera; Wogsland; Yockim

NAYS: Axtman; Ewen; Freborg; Hanson; Hilken; Ingstad; Keller; Kinnoin; Lips; Lodoen; Mathern; Moore; Nalewaja; Nelson; Nething; O'Connell; Peterson; Redlin; Streibel; Stromme; Tennefos; Vosper

ABSENT AND NOT VOTING: Lashkowitz; Mutch; Naaden

HB 1641 passed and the title was agreed to.

MOTION

SEN. MAIXNER MOVED that the Senate stand at recess until 3:00 p.m., which motion prevailed.

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

CONSIDERATION OF MESSAGE FROM THE HOUSE

SEN. SATROM MOVED that the Senate do concur in the House amendments to SB 2518 as printed on page 1630 of the Senate Journal, which motion prevailed.

SECOND READING OF SENATE BILL

SB 2518: A BILL for an Act to amend and reenact section 40-57.1-04.1 of the North Dakota Century Code, relating to the period for which tax exemptions for new industries may be granted; and to provide an effective date.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 41 YEAS, 0 NAYS, 12 ABSENT AND NOT VOTING.

YEAS: Axtman; Dotzenrod; Ewen; Freborg; Heigaard; Heinrich; Hilken; Ingstad; Kelsh; Kinnoin; Krauter; Krebsbach; Langley; Lips; Lodoen; Maixner; Mathern; Meyer, D.; Meyer, J.; Meyer, W.; Moore; Mushik; Nalewaja; Nelson; O'Connell; Olson; Peterson; Redlin; Richard; Robinson; Satrom; Shea; Streibel; Stromme; Tallackson; Thane; Todd; Vosper; Waldera; Wogsland; Yockim

NAYS: None

ABSENT AND NOT VOTING: David; Hanson; Holmberg; Keller; Lashkowitz; Maxson; Mutch; Naaden; Nething; Schoenwald; Stenehjsem; Tennefos

SB 2518 passed and the title was agreed to.

MOTIONS

SEN. MAIXNER MOVED that the vote by which SB 2309, SB 2153, SB 2256, SB 2262, SB 2322, SB 2468, SB 2518, and HB 1641 passed be reconsidered and the motion to reconsider be laid on the table, which motion prevailed.

SEN. MAIXNER MOVED that the rules be suspended and that SB 2309, SB 2153, SB 2256, SB 2262, SB 2322, SB 2468, SB 2518, and HB 1641 be messaged to the House immediately, which motion prevailed.

MESSAGE to the HOUSE from the SENATE (Patricia Conrad, Secretary)

MR. SPEAKER: The Senate has concurred in the House amendments to SB 2518 and subsequently passed the same.

MESSAGE to the HOUSE from the SENATE (Patricia Conrad, Secretary)

MR. SPEAKER: The Senate has adopted the conference committee report on SB 2153, SB 2256, SB 2262, SB 2322, and SB 2468 and subsequently passed the same.

MESSAGE to the HOUSE from the SENATE (Patricia Conrad, Secretary)

MR. SPEAKER: The Senate has adopted the conference committee report on SB 2309 and subsequently passed the same.

MESSAGE to the HOUSE from the SENATE (Patricia Conrad, Secretary)

MR. SPEAKER: The Senate has passed unchanged: HB 1641.

MOTIONS

SEN. MAIXNER MOVED that the absent members be excused, which motion prevailed.

SEN. MAIXNER MOVED that the Senate be on the Fifth order of business, and at the conclusion of the Fifth order, the Senate be on the Seventh order of

business, and at the conclusion of the Seventh order, the Senate be on the Twelfth order of business, and at the conclusion of the Twelfth order, the Senate be on the Sixteenth order of business, and at the conclusion of the Sixteenth order, and after the reading of SB 2540, the Senate stand adjourned until 8:00 a.m., Monday, April 10, 1989, which motion prevailed.

REPORTS OF STANDING COMMITTEES

MR. PRESIDENT: Your Committee on Agriculture (Sen. W. Meyer, Chairman) to which was referred SB 2540 has had the same under consideration and recommends by a vote of 8 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING that the same DO PASS.

SB 2540 was placed on the Eleventh order of business on the calendar for the succeeding legislative day.

MR. PRESIDENT: Your Committee on Human Services and Veterans Affairs (Sen. Kelsh, Chairman) to which was referred SCR 4073 has had the same under consideration and recommends by a vote of 6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING that the same DO PASS and BE PLACED ON THE CONSENT CALENDAR.

SCR 4073 was placed on the Tenth order of business on the calendar for the succeeding legislative day.

MR. PRESIDENT: Your Committee on Finance and Taxation (Sen. Satrom, Chairman) to which was referred HB 1049 has had the same under consideration and recommends by a vote of 5 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING that the same BE AMENDED AS FOLLOWS and when so amended, recommends the same DO PASS:

OPTION A - PROPOSED AMENDMENTS TO ENGROSSED HB 1049

Page 1, line 5, remove the second "and"

Page 1, line 11, after "Incorporated" insert "; and to declare an emergency"

Page 1, line 20, overstrike "Is" and insert immediately thereafter "Has its principal office in this state and is primarily"

Page 2, line 2, replace "one million" with "five hundred thousand"

Page 2, line 15, after "investors" insert "within two years of receiving the funds"

Page 6, line 13, after "corporation" insert "or a separate legal entity such as a limited partnership created by the corporation as an affiliate for the purpose of obtaining investment capital from the public"

Page 7, after line 8, insert:

"SECTION 12. EMERGENCY. This Act is declared to be an emergency measure."

Reumber accordingly

OPTION B - PROPOSED AMENDMENTS TO ENGROSSED HB 1049

Page 1, line 2, replace "and" with a comma and after "10-30.2" insert ", and two new subsections to section 57-38-30.3"

Page 1, line 3, after "to" insert "the income tax credit for investment in the Myron G. Nelson Fund, Incorporated, and venture capital

corporations under the simplified optional method of computing state income tax liability and"

Page 1, line 7, after "sections" insert "10-30.1-09,"

Page 3, after line 14, insert:

"SECTION 5. AMENDMENT. Section 10-30.1-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

10-30.1-09. Tax credit - Procedure. To receive the tax credit provided by this chapter, a taxpayer must claim the tax credit on the taxpayer's annual state income tax return in the manner prescribed by the state tax commissioner and file with the taxpayer's annual state tax return a copy of the form issued by the venture capital corporation as to the taxpayer's investment in the venture capital corporation pursuant to section 10-30.1-10. ~~The tax credit provided for in this chapter, including carrybacks and carryforwards, may not be claimed by taxpayers filing income tax returns pursuant to the provisions of section 57-38-30.3."~~

Page 7, after line 8, insert:

"SECTION 13. Two new subsections to section 57-38-30.3 of the 1987 Supplement to the North Dakota Century Code are hereby created and enacted to read as follows:

"An individual, estate, or trust is allowed, as a credit against a tax otherwise due under this section, the credit for investment in stock of the Myron G. Nelson Fund, Incorporated, or in a separate legal entity such as a limited partnership created by the corporation as an affiliate for the purpose of obtaining investment from the public, provided for in section 10-30.2-12.

An individual, estate, or trust is allowed, as a credit against a tax otherwise due under this section, the credit for investment in a venture corporation provided for in chapter 10-30.2. If a taxpayer entitled to a credit against any state income tax liability for a venture capital corporation organized under chapter 10-30.1, prior to the effective date of this Act, either did not claim the credit in the appropriate taxable year under section 10-30.1-07 or has filed an amended return which does not claim the credit that was originally taken by the taxpayer under section 10-30.1-07, the taxpayer may claim the credit pursuant to this section in a taxable year beginning after December 31, 1988; however, the amount of that credit which exceeds the taxpayer's tax liability in the year that the credit is claimed may not be carried back under section 10-30.1-07 and a carryforward of credit must be applied from the taxable year in which the credit is claimed under this subsection."

Renumber accordingly

HB 1049 was placed on the Sixth order of business on the calendar for the succeeding legislative day.

REPORTS OF CONFERENCE COMMITTEES

MR. PRESIDENT: Your Conference Committee to which was referred Reengrossed SB 2193 has had the same under consideration and recommends that the HOUSE RECEDE from the House amendments as found on pages 1249-1250 of the Senate Journal and that Reengrossed SB 2193 be amended as follows:

In lieu of the amendments to reengrossed Senate Bill No. 2193 as printed on page 1596 of the Senate Journal, reengrossed Senate Bill No. 2193 is amended as follows:

Page 1, line 19, after "procedures" insert ", although does not need to be legally trained,"

Page 1, line 20, replace "political or economic association" with "bias or prejudice"

Page 1, remove line 22

Page 2, remove line 1

Page 2, line 2, remove "officer."

Page 2, line 26, remove "the state water commission, job"

Page 2, line 27, remove "service North Dakota,"

Renumber accordingly

For the Senate: Sens. Maxson, Stenehjem, Holmberg

For the House: Reps. Aas, Shaft, Ulmer

Reengrossed SB 2193 was placed on the Seventh order of business on the calendar for the succeeding legislative day.

MR. PRESIDENT: Your Conference Committee to which was referred SB 2222 has had the same under consideration and recommends that the HOUSE RECEDE from the House amendments as found on page 1438 of the Senate Journal and that SB 2222 be amended as follows:

Page 1, line 5, after "Nondisclosure" insert "- Record of information maintained"

Page 1, line 8, after the period insert "A criminal justice agency shall maintain a list of all files containing active criminal intelligence and investigative information which have been in existence for more than one year. The list required under this subsection is subject to section 44-04-18."

Renumber accordingly

For the Senate: Sens. J. Meyer, Hanson, Holmberg

For the House: Reps. D. Larson, Stenehjem, Kolbo

SB 2222 was placed on the Seventh order of business on the calendar for the succeeding legislative day.

MR. PRESIDENT: Your Conference Committee to which was referred Engrossed SB 2226 has had the same under consideration and recommends that the HOUSE

RECEDE from the House amendments as found on page 1009 of the Senate Journal and that Engrossed SB 2226 be amended as follows:

Page 2, line 2, remove "and rules of the board of university and school lands"

ReNUMBER accordingly

For the Senate: Sens. Maixner, O'Connell, David
For the House: Reps. Schatz, R. Berg, Tomac

Engrossed SB 2226 was placed on the Seventh order of business on the calendar for the succeeding legislative day.

MR. PRESIDENT: Your Conference Committee to which was referred Engrossed SB 2376 has had the same under consideration and recommends that the HOUSE RECEDE from the House amendments as found on page 1371 of the Senate Journal and that Engrossed SB 2376 be amended as follows:

Page 1, line 14, replace ". An opening may be placed in the dividing wall to allow" with "designed to allow sales personnel to serve customers and make sales in both the licensed and unlicensed portions of the premises, and that may allow customers in either portion of the premises access to the other portion."

Page 1, remove lines 15 through 18

ReNUMBER accordingly

For the Senate: Sens. Robinson, Ingstad, Langley
For the House: Reps. Shaft, Howard, Flaagan

Engrossed SB 2376 was placed on the Seventh order of business on the calendar for the succeeding legislative day.

MR. PRESIDENT: Your Conference Committee to which was referred Engrossed SB 2389 has had the same under consideration and recommends that the HOUSE RECEDE from the House amendments as found on pages 1445-1446 of the Senate Journal and that Engrossed SB 2389 be amended as follows:

Page 7, line 17, after "attorney" insert "or retained attorney"

Page 7, line 24, after "residence" insert ", or to an attorney retained by that person to represent the applicant throughout the proceedings" and remove "state's"

Page 8, line 23, after "attorney" insert "or retained attorney"

Page 13, line 1, overstrike "The" and insert immediately thereafter "Unless the petitioner has retained an attorney, the"

Page 13, line 4, replace ", except for" with ". The state's attorney or an attorney retained by the petitioner need not appear at"

Page 16, line 28, after the underscored comma insert "the petitioner's retained attorney,"

Page 26, line 26, after the second comma insert "state's attorney,"

Renumber accordingly

For the Senate: Sens. Maxson, Holmberg, Stenehjem
For the House: Reps. Aas, Shaft, Ring

Engrossed SB 2389 was placed on the Seventh order of business on the calendar for the succeeding legislative day.

MR. PRESIDENT: Your Conference Committee to which was referred SB 2459 has had the same under consideration and recommends that the HOUSE RECEDE from the House amendments as found on pages 1458-1459 of the Senate Journal and that SB 2459 be amended as follows:

Page 1, line 15, after "or" insert ", if indigent,"

Page 1, line 17, after the underscored period insert "As an alternative to the state's attorney serving as legal counsel to the parent, the state's attorney may request the court to order, upon which the court may order, if a conflict is shown to exist, that other legal counsel services that may be available be provided to the parent at no cost to the parent. These alternative legal counsel services include counsel services for indigent persons."

Page 2, line 11, after "or" insert ", if indigent,"

Page 2, line 13, after the underscored period insert "As an alternative to the state's attorney serving as legal counsel to the parent, the state's attorney may request the court to order, upon which the court may order, if a conflict is shown to exist, that other legal counsel services that may be available be provided to the parent at no cost to the parent. These alternative legal counsel services include counsel services for indigent persons."

Page 4, line 2, after "or" insert ", if indigent,"

Page 4, line 5, after the underscored period insert "As an alternative to the state's attorney serving as legal counsel to the parent, the state's attorney may request the court to order, upon which the court may order, if a conflict is shown to exist, that other legal counsel services that may be available be provided to the parent at no cost to the parent. These alternative legal counsel services include counsel services for indigent persons."

Renumber accordingly

For the Senate: Sens. Maxson, Stenehjem, Nalewaja
For the House: Reps. Wentz, Shaft, Nelson

SB 2459 was placed on the Seventh order of business on the calendar for the succeeding legislative day.

MESSAGE to the HOUSE from the SENATE (Patricia Conrad, Secretary)

MR. SPEAKER: The Senate has passed and your favorable consideration is requested on: SB 2536.

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

MR. PRESIDENT: The Speaker has signed and your signature is respectfully requested: HB 1229, HB 1563.

MESSAGE to the HOUSE from the SENATE (Patricia Conrad, Secretary)

MR. SPEAKER: The Senate has adopted the conference committee report on SB 2042, stating that the conference committee is unable to agree and the President has appointed as a new conference committee to act with a like committee from the House on:

SB 2042: Sens. Maxson, Dotzenrod, Lodoen

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

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

SB 2042: Reps. Haugen, Lindgren, Carlson

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

PATRICIA CONRAD, Secretary