

JOURNAL OF THE SENATE

Fifty-first Legislative Assembly

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Bismarck, April 14, 1989

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

The prayer was offered by Rev. Stanley Malmgren, Menoken Community Church, Menoken.

Almighty God, we come before Thee this hour acknowledging the greatness of Thyself, and in recognition of the manifold measures of blessings that Thou hast bestowed upon us as individuals, and as elected servants of the citizens of North Dakota.

We confess our weaknesses and faults wherein we have at times failed to seek Divine guidance that Thou hast offered to those who seek Thy help.

Grant that in these closing days of this legislative session we may have special wisdom from Thee in the proposing and enacting of the laws and policies that will govern the people of the state of North Dakota in the forthcoming years.

We bless and thank Thee for hearing our supplications this day. We pray in the name of Him who loved us and gave Himself for us - the Lord and Saviour, Jesus Christ. Amen.

The roll was called and all Senators were present, except Senators Ingstad, Lashkowitz, and D. Meyer.

A quorum was declared by the President.

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 2005: Reprs. K. Thompson, O. Hanson, Nowatzki

SB 2006: Reprs. Sorensen, Wald, Stofferahn

SB 2114: Reprs. Payne, O. Hanson, 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 2003: Reprs. R. Hausauer, Payne, Mertens

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

MR. PRESIDENT: The House does not concur in the Senate amendments to HB 1001 and HB 1002 and the Speaker has appointed as a conference committee to act with a like committee from the Senate on:

HB 1001: Reprs. Gunsch, Gerntholz, Laughlin

HB 1002: Reprs. K. Thompson, Gates, Hoffner

MESSAGE to the SENATE from the HOUSE (Roy Gilbreath, Chief Clerk)
MR. PRESIDENT: The House does not concur in the Senate amendments to HB 1025 and the Speaker has appointed as a conference committee to act with a like committee from the Senate on:

HB 1025: Reprs. R. Hausauer, Dalrymple, Stofferahn

MESSAGE to the SENATE from the HOUSE (Roy Gilbreath, Chief Clerk)
MR. PRESIDENT: The House has passed and your favorable consideration is requested on: HCR 3090.

MOTION

SEN. DOTZENROD MOVED that SB 2153 be moved to the bottom of the calendar, which motion prevailed.

REPORT OF CONFERENCE COMMITTEE

SEN. J. MEYER MOVED that the conference committee report on SB 2222 as printed on page 1876 of the Senate Journal be adopted, which motion prevailed.

SECOND READING OF SENATE BILL

SB 2222: A BILL for an Act to provide for an exception to the open records law for law enforcement criminal intelligence and criminal investigative information.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 52 YEAS, 0 NAYS, 1 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; Mutch; 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

SB 2222 passed and the title was agreed to.

REPORT OF CONFERENCE COMMITTEE

SEN. KELLER MOVED that the conference committee report on Engrossed SB 2237 as printed on pages 1876-1877 of the Senate Journal be adopted, which motion prevailed.

SECOND READING OF SENATE BILL

SB 2237: A BILL for an Act to amend and reenact sections 65-02-06, 65-05-01, 65-05-02, 65-05-09.1, 65-05-15, 65-05-17, 65-05-25, 65-05-28, 65-05-29, 65-05-30, 65-05-32, 65-05-33, and 65-08-01 of the North Dakota Century Code, relating to workers' compensation and reinsurance, filing on behalf of an injured worker, physician's certificate of physical examinations, offset in cases of social security overpayment,

aggravation law application, death benefits, bureau ordered independent medical evaluations, offset in cases of overpayment, medical information available to the bureau, privacy rights of claimants, definition of a false claim, providing a penalty for filing a false claim, bureau authority to compromise and settle disputed claims, and out-of-state job sites; and to provide a penalty.

ROLL CALL

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

YEAS: Axtman; David; Dotzenrod; Ewen; Freborg; Hanson; Heinrich; Hilken; Holmberg; Ingstad; Keller; Kelsh; Kinnoin; Krauter; Krebsbach; Langley; Lips; Lodoen; Maixner; Mathern; Maxson; Meyer, D.; Meyer, J.; Meyer, W.; Moore; Mushik; Mutch; 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: Heigaard; Lashkowitz

SB 2237 passed and the title was agreed to.

REPORT OF CONFERENCE COMMITTEE

SEN. J. MEYER MOVED that the conference committee report on HB 1369 as printed on pages 1856-1857 of the Senate Journal be adopted, which motion prevailed.

CONSIDERATION OF MESSAGE FROM THE HOUSE

SEN. LANGLEY MOVED that the Senate do concur in the House amendments to SB 2412 as printed on pages 1848-1851 of the Senate Journal, which motion prevailed.

SECOND READING OF SENATE BILL

SB 2412: A BILL for an Act to amend and reenact section 54-52.1-02 and subsection 3 of section 54-52.1-03 of the North Dakota Century Code, relating to establishing subgroups in the uniform group insurance program; and to provide a contingent appropriation.

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; Heinrich; Hilken; Holmberg; Ingstad; Keller; Kelsh; Kinnoin; Krauter; Krebsbach; Langley; Lips; Lodoen; Maixner; Mathern; Maxson; Meyer, D.; Meyer, J.; Meyer, W.; Moore; Mushik; Mutch; 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: Heigaard; Lashkowitz

SB 2412 passed and the title was agreed to.

MESSAGE to the SENATE from the HOUSE (Roy Gilbreath, Chief Clerk)
MR. PRESIDENT: The House has passed unchanged: SB 2094, SB 2210, SCR 4074.

MOTION

SEN. MAIXNER MOVED that the Senate stand at 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

Senate Chamber
NORTH DAKOTA LEGISLATIVE ASSEMBLY
Bismarck

April 14, 1989

Jim Kusler
Secretary of State
State Capitol
Bismarck, ND 58505

Dear Mr. Kusler:

The Senate respectfully would like to withdraw our request for the return of SCR 4017.

Sincerely,

PATRICIA CONRAD
Secretary of the Senate

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 2016: Reps. Kingsbury, Gunsch, Solberg

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:

HB 1499: Reps. Goetz, A. Hausauer, Tomac

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-ninth Day and finds it to be correct.

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

REPORT OF CONFERENCE COMMITTEE

SEN. DOTZENROD MOVED that the conference committee report on Engrossed SB 2153 as printed on pages 1875-1876 of the Senate Journal be adopted, which motion prevailed.

CONSIDERATION OF MESSAGE FROM THE HOUSE

SEN. TALLACKSON MOVED that the Senate do concur in the House amendments to SB 2022 as printed on pages 1866-1868 of the Senate Journal, which motion prevailed.

SECOND READING OF SENATE BILL

SB 2022: A BILL for an Act making an appropriation for defraying the expenses of the department of corrections and rehabilitation and the pardon board of the state of North Dakota; providing for a transfer from the North Dakota state penitentiary land fund; and to amend and reenact sections 12.1-32-12 and 54-16-11.1 of the North Dakota Century Code, relating to penalties and sentencing and emergency commission authority to increase revenues and appropriation authority for intergovernmental service fund agencies; and to repeal section 12.1-32-10 of the North Dakota Century Code, relating to mandatory parole components.

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

NAYS: None

ABSENT AND NOT VOTING: Heigaard; Lashkowitz; Waldera; Yockim

SB 2022 passed and the title was agreed to.

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

MR. PRESIDENT: The House has adopted the conference committee report on HB 1134, HB 1158, and HB 1200 and subsequently passed the same.

REPORTS OF CONFERENCE COMMITTEES

MR. PRESIDENT: Your Conference Committee to which was referred HB 1134 has had the same under consideration and recommends that the SENATE RECEDE from the Senate amendments as found on page 1011 of the Senate Journal and that HB 1134 be amended as follows:

Page 1, line 2, after "records" insert "; to amend and reenact section 23-07-21 of the North Dakota Century Code, relating to penalties for releasing confidential records or information concerning reportable diseases; and to provide a penalty"

Page 1, underscore lines 6 through 12

Page 1, after line 12, insert:

"SECTION 2. AMENDMENT. Section 23-07-21 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-07-21. Penalties. Any person:

1. Who violates or fails to obey any of the provisions of this chapter, any lawful rule or regulation made by the state department of health and consolidated laboratories, or any order issued by any state, district, county, or municipal health officer;
2. Who violates any quarantine law or regulation, or who leaves a quarantined area without being discharged; or
3. Who, knowing that ~~he~~ that person is infected with a ~~venerereal~~ sexually transmitted disease, willfully exposes another person to infection,

is guilty of an infraction."

Renumber accordingly

For the Senate: Sens. J. Meyer, Mathern, Nalewaja

For the House: Reps. Gates, Trautman, J. DeMers

HB 1134 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 HB 1158 has had the same under consideration and recommends that the SENATE RECEDE from the Senate amendments as found on page 1570 of the Senate Journal and that HB 1158 be amended as follows:

Page 1, line 10, replace "consulting actuarial firm" with "consultant"

Page 1, after line 14, insert:

"SECTION 2. LEGISLATIVE INTENT. It is the intent of the fifty-first legislative assembly that the public employees retirement system may spend \$100,000, or so much thereof as may be necessary, from the health insurance fund for conducting nondiscrimination testing to comply with section 89 of the Internal Revenue Code. If sufficient funds are not available to fully defray the costs of section 89 testing and pay the necessary health insurance premiums for the biennium beginning July 1, 1989, and ending June 30, 1991, the public employees retirement system shall present a deficiency appropriation request to the fifty-second legislative assembly."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

The amendment provides a section of legislative intent stating that up to \$100,000 from the health insurance fund may be spent for conducting

nondiscrimination testing required by the Internal Revenue Code. An appropriation is not necessary since the Public Employees Retirement System (PERS) can meet these expenses from the health insurance fund pursuant to Section 54-52-04.

The amendment also provides that PERS may use a consultant rather than a consulting actuarial firm to conduct the testing.

For the Senate: Sens. Tallackson, Ewen, Lips
For the House: Reps. Sorensen, Dalrymple, Watne

HB 1158 was placed on the Seventh order of business on the calendar for the succeeding legislative day.

CONSIDERATION OF MESSAGE FROM THE HOUSE

SEN. J. MEYER MOVED that the Senate do not concur in the House amendments to SB 2332 as printed on pages 1846-1848 of the Senate Journal and that a conference committee be appointed to meet with a like committee from the House, which motion prevailed.

APPOINTMENT OF A CONFERENCE COMMITTEE

THE PRESIDENT APPOINTED as a Conference Committee on SB 2332: Sens. Maxson, J. Meyer, Stenehjøm.

CONSIDERATION OF MESSAGE FROM THE HOUSE

SEN. DOTZENROD MOVED that the Senate do not concur in the House amendments to SB 2455 as printed on pages 1851-1854 of the Senate Journal and that a conference committee be appointed to meet with a like committee from the House, which motion prevailed.

APPOINTMENT OF A CONFERENCE COMMITTEE

THE PRESIDENT APPOINTED as a Conference Committee on SB 2455: Sens. Dotzenrod, Robinson, Ingstad.

CONSIDERATION OF MESSAGE FROM THE HOUSE

SEN. KRAUTER MOVED that the Senate do concur in the House amendments to SB 2539 as printed on page 1865 of the Senate Journal, which motion prevailed.

SECOND READING OF SENATE BILL

SB 2539: A BILL for an Act to amend and reenact section 20.1-03-08 of the North Dakota Century Code, relating to nonresident fishing licenses.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 45 YEAS, 7 NAYS, 1 ABSENT AND NOT VOTING.

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

NAYS: David; Lodoen; Meyer, D.; Moore; Naaden; Nelson; Vosper

ABSENT AND NOT VOTING: Lashkowitz

SB 2539 passed and the title was agreed to.

APPOINTMENT OF CONFERENCE COMMITTEES

SEN. TALLACKSON MOVED that the President appoint a committee of three to act with a like committee from the House as a Conference Committee on HB 1001, which motion prevailed.

THE PRESIDENT APPOINTED as a Conference Committee on HB 1001: Sens. Wogsland, Shea, Nelson.

SEN. TALLACKSON MOVED that the President appoint a committee of three to act with a like committee from the House as a Conference Committee on HB 1002, which motion prevailed.

THE PRESIDENT APPOINTED as a Conference Committee on HB 1002: Sens. Tallackson, Ewen, Lips.

SEN. TALLACKSON MOVED that the President appoint a committee of three to act with a like committee from the House as a Conference Committee on HB 1025, which motion prevailed.

THE PRESIDENT APPOINTED as a Conference Committee on HB 1025: Sens. Waldera, Yockim, Nelson.

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 1001: Sens. Wogsland, Shea, Nelson
- HB 1002: Sens. Tallackson, Ewen, Lips
- HB 1025: Sens. Waldera, Yockim, Nelson

MOTIONS

SEN. MAIXNER MOVED that HB 1604 be placed at the head of the calendar, which motion prevailed.

SEN. MAIXNER MOVED that the Senate remove all Senate amendments from HB 1604.

REQUEST

SEN. NALEWAJA REQUESTED a recorded roll call vote on the motion to remove all Senate amendments from HB 1604, which request was granted.

ROLL CALL

The question being on the motion to remove all Senate amendments from HB 1604, the roll was called and there were 30 YEAS, 22 NAYS, 1 ABSENT AND NOT VOTING.

YEAS: Dotzenrod; Ewen; Hanson; Heigaard; Heinrich; Hilken; Holmberg; Keller; Kelsh; Kinnoin; Krauter; Langley; Lips; Maixner; Mathern; Maxson; Meyer, J.; Mushik; O'Connell; Redlin; Richard; Robinson; Satrom; Schoenwald; Shea; Stromme; Tallackson; Waldera; Wogsland; Yockim

NAYS: Axtman; David; Freborg; Ingstad; Krebsbach; Lodoen; Meyer, D.; Meyer, W.; Moore; Mutch; Naaden; Nalewaja; Nelson; Nething; Olson; Peterson; Stenehjem; Streibel; Tennefos; Thane; Todd; Vosper

ABSENT AND NOT VOTING: Lashkowitz

The motion prevailed.

MOTION

SEN. FREBORG MOVED that HB 1604 be amended as follows:

Page 1, line 15, after "diseases" insert ", with total emphasis on abstinence,"

Page 1, line 16, after "and" insert "prevention and control of" and remove ", with emphasis on"

Page 1, line 17, remove "abstinence"

Renumber accordingly

REQUEST

SEN. FREBORG REQUESTED a recorded roll call vote on the motion to adopt the proposed amendments to engrossed HB 1604, which request was granted.

ROLL CALL

The question being on the motion to adopt the proposed amendments to HB 1604, the roll was called and there were 24 YEAS, 28 NAYS, 1 ABSENT AND NOT VOTING.

YEAS: Axtman; David; Freborg; Hanson; Ingstad; Keller; Krebsbach; Lips; Lodoen; Meyer, D.; Meyer, W.; Moore; Mutch; Naaden; Nalewaja; Nelson; Nething; Olson; Shea; Streibel; Tennefos; Thane; Todd; Vosper

NAYS: Dotzenrod; Ewen; Heigaard; Heinrich; Hilken; Holmberg; Kelsh; Kinnoin; Krauter; Langley; Maixner; Mathern; Maxson; Meyer, J.; Mushik; O'Connell; Peterson; Redlin; Richard; Robinson; Satrom; Schoenwald; Stenehjerm; Stromme; Tallackson; Waldera; Wogsland; Yockim

ABSENT AND NOT VOTING: Lashkowitz

The proposed amendments to HB 1604 lost.

SECOND READING OF HOUSE BILL

HB 1604: A BILL for an Act to provide for a program of comprehensive health education to promote public health and public health awareness in the state; and to provide an appropriation.

ROLL CALL

The question being on the final passage of the bill, which has been read and is PLACED ON THE CALENDAR WITHOUT RECOMMENDATION, the roll was called and there were 25 YEAS, 27 NAYS, 1 ABSENT AND NOT VOTING.

YEAS: Ewen; Hanson; Heigaard; Heinrich; Holmberg; Ingstad; Kelsh; Krebsbach; Langley; Maixner; Mathern; Maxson; Mushik; O'Connell; Peterson; Redlin; Richard; Satrom; Schoenwald; Stenehjerm; Stromme; Tallackson; Waldera; Wogsland; Yockim

NAYS: Axtman; David; Dotzenrod; Freborg; Hilken; Keller; Kinnoin; Krauter; Lips; Lodoen; Meyer, D.; Meyer, J.; Meyer, W.; Moore; Mutch; Naaden; Nalewaja; Nelson; Nething; Olson; Robinson; Shea; Streibel; Tennefos; Thane; Todd; Vosper

ABSENT AND NOT VOTING: Lashkowitz

HB 1604 lost.

SEN. MAIXNER CHANGED his vote on HB 1604 from "yea" to "nay" for the purpose of reconsideration.

MOTION

SEN. HEIGAARD MOVED that the Senate stand at recess until 1:30 p.m., which motion prevailed.

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

SIGNING of BILLS and RESOLUTIONS (Patricia Conrad, Secretary)
THE SECRETARY ANNOUNCED that the President signed the following enrolled bills: SB 2042, SB 2093, SB 2501.

MESSAGE to the HOUSE from the SENATE (Patricia Conrad, Secretary)
MR. SPEAKER: The President has signed and your signature is respectfully requested: SB 2042, SB 2093, SB 2501.

MESSAGE to the SENATE from the HOUSE (Roy Gilbreath, Chief Clerk)
MR. PRESIDENT: The Speaker has signed and your signature is respectfully requested: HB 1012, HB 1021, HB 1077, HB 1155, HB 1185, HB 1205, HB 1449, HB 1558, HB 1564, HB 1581.

MESSAGE to the SENATE from the HOUSE (Roy Gilbreath, Chief Clerk)
MR. PRESIDENT: The House does not concur in the Senate amendments to HB 1024, HB 1036 and HB 1637 and the Speaker has appointed as a conference committee to act with a like committee from the Senate on:

HB 1024: Reprs. O. Hanson, Payne, Mertens
HB 1036: Reprs. Whalen, Soukup, Starke
HB 1637: Reprs. K. Thompson, Gates, L. Hanson

CONSIDERATION OF MESSAGE FROM THE HOUSE

SEN. HILKEN MOVED that the Senate do not concur in the House amendments to SB 2243 as printed on pages 1840-1846 of the Senate Journal and that a conference committee be appointed to meet with a like committee from the House, which motion prevailed.

APPOINTMENT OF A CONFERENCE COMMITTEE

THE PRESIDENT APPOINTED as a Conference Committee on SB 2243: Sens. Satrom, Hilken, Mutch.

MOTION

SEN. MAIXNER MOVED that the conference committee report on HB 1200 be brought before the Senate, which motion prevailed.

REPORT OF CONFERENCE COMMITTEE

MR. PRESIDENT: Your Conference Committee to which was referred Engrossed HB 1200 has had the same under consideration and recommends that the SENATE RECEDE from the Senate amendments as found on page 1237 of the Senate Journal and that Engrossed HB 1200 be amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 57-43.1 of the North Dakota Century Code, relating to motor vehicle fuel tax refunds to farm operators; to amend and reenact sections 4-14.1-01, 4-14.1-02, 4-14.1-03, 4-14.1-04, 4-14.1-05, 57-43.1-03, and 57-43.1-06 of the North Dakota Century Code, relating to the North Dakota agricultural products utilization commission, agricultural fuel tax fund, refunds of motor vehicle fuels taxes, and allocation of a portion of motor fuel tax refunds to the agricultural fuel tax fund; and to provide an appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 4-14.1-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-14.1-01. Legislative policy and purpose. It is hereby declared to be the public policy of the state of North Dakota to protect and foster the prosperity and general welfare of its people by providing a new domestic source of energy and chemicals and other value-added products; and by stimulating improving the agricultural economy of the state. In furtherance of this policy, it is the purpose of this chapter to provide necessary assistance in the construction; operation; and maintenance of agricultural processing plants in North Dakota for the manufacture and marketing of agriculturally derived fuel, chemicals; and other agricultural products to the research and marketing needs of the state by developing new uses for agricultural products, byproducts, and by seeking more efficient systems for processing and marketing agricultural products and byproducts, and to promote efforts to increase productivity and provide added value to agricultural products.

SECTION 2. AMENDMENT. Section 4-14.1-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-14.1-02. Agriculturally derived Agricultural fuel tax fund - Purposes - Other funds. There is hereby created in the state treasury, a fund, to be known as the agriculturally derived agricultural fuel tax fund, which must be used to provide a program fund programs for the implementation enhancement of a state agricultural research, development, processing industry, and marketing. The fund must be used for the following purposes:

1. Establishment; with cooperation from private industry; of procedures and processes necessary to the manufacture and marketing of agriculturally derived fuels; chemicals; and other agricultural products. Appropriation to the North Dakota agricultural products utilization commission for its necessary administrative expenses including expenses of members of the commission, employment of needed personnel, hiring of consultants, contracting with public or private entities for services, and other expenditures necessary to implement the purposes of this chapter.
2. Establishment of a procedure for entering the agriculturally derived fuel, chemicals; and other agricultural products into the marketplace by private enterprise. Seventy-five percent of agricultural fuel tax funds available to the North Dakota

agricultural products utilization commission after amounts necessary under subsection 1 must be made available for basic and applied research efforts regarding uses and processing for agricultural products and byproducts in consultation with the president of North Dakota state university and with the prior approval of the commission on each research proposal.

3. Analysis of the marketing process and testing of marketing procedures to assure acceptance of agriculturally derived fuels, chemicals, and other agricultural products resulting from their manufacture, in the private marketplace. Twenty-five percent of agricultural fuel tax funds available to the North Dakota agricultural products utilization commission after amounts necessary under subsection 1 must be made available for utilization and marketing efforts in consultation with the commissioner of agriculture and with the prior approval of the commission on each marketing proposal.
4. Cooperation with private industry to establish privately owned agricultural processing plants in this state to supply demand for agriculturally derived fuel, chemicals, and other agricultural products. The North Dakota agricultural products utilization commission may apply for, accept, and expend any grants, gifts, or services made available from public or private sources consistent with the purposes of this chapter.
5. Employment of needed personnel, hiring of consultants, and contracting with public entities or private parties for services as may be necessary to implement the policy and purposes of this chapter. The allocation of funds in subdivisions 2 and 3 may be changed by the agricultural products utilization commission, subject to emergency commission approval.

SECTION 3. AMENDMENT. Section 4-14.1-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-14.1-03. Agricultural products utilization commission - Composition - Appointment. The agriculturally derived agricultural fuel tax fund must be administered by the agricultural products utilization commission which is hereby established. The commission consists of ~~seven~~ nine members ~~to~~, six of whom shall be appointed by the governor for terms of two years each, arranged so that at least three terms expire every year. Four members appointed by the governor must be actively engaged in farming in this state, ~~one member must be actively engaged in the petroleum industry~~, and two members appointed by the governor must be actively engaged in business in this state. Commission members may be reappointed to the commission. Terms of commissioners shall run from the first day of July of odd-numbered years. The director of the economic development commission, the president of North Dakota state university, and the commissioner of agriculture, or their designees, are members of the commission. The commission shall elect one of its members as chairman.

SECTION 4. AMENDMENT. Section 4-14.1-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-14.1-04. Agricultural products utilization commission - Meetings - Personnel - Advisory committee Reports. The agricultural products utilization commission shall meet at least once annually, as necessary and shall report to each session of the legislative assembly. The commission may secure office space and employ needed personnel for the performance of its duties, may hire consultants, and may contract with public entities or private parties for services. ~~The agricultural products utilization commission shall have an advisory committee composed of three persons, one each designated by the director of the economic development commission, the president of the North Dakota state university, and the state commissioner of agriculture.~~

SECTION 5. AMENDMENT. Section 4-14.1-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-14.1-05. Agricultural products utilization commission - Expense reimbursement only Reimbursement - Compensation. All members of the agricultural products utilization commission must be reimbursed for their actual and necessary expenses incurred in the performance of their duties, in the same manner as other state officials are reimbursed, according to sections 44-08-04 and 54-06-09, and shall receive no other compensation if not otherwise employed by the state of North Dakota, may receive up to fifty dollars for each regular meeting attended. The commission chairman, if not otherwise employed by the state of North Dakota, may receive an additional one hundred dollars for each regular meeting attended as payment for reviewing and evaluating grant proposals.

SECTION 6. AMENDMENT. Section 57-43.1-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-43.1-03. Refund of tax provided for fuel used for industrial purposes - Reduction for agriculturally derived agricultural fuel tax fund. Any person who buys or uses any motor vehicle fuel as defined in subsection 4 of section 57-43.1-01 for agricultural or industrial purposes, except motor vehicle fuel used in motor vehicles operated or intended to be operated in whole or in part upon any of the public highways of this state on which the motor vehicle fuel tax has been paid, shall be reimbursed or repaid within the time provided in this section chapter, the amount of the tax paid by him upon the presentation to and the approval of the commissioner of a claim for refund. The amount of the tax refund provided for in this section shall be reduced by one-half cent per gallon [3.79 liters] retroactive to January 1, 1983, except for those fuels used in aircraft or with respect to refunds claimed by aircraft fuel users, and the one-half cent per gallon [3.79 liters] withheld from the refund shall must be deposited in the agriculturally derived agricultural fuel tax fund. Those persons who have a valid tax assignment permit issued by the commissioner under section 57-43.1-11 shall be charged one-half cent per gallon [3.79 liters] by the dealer and the one-half cent charge shall be remitted to the commissioner by the dealer when the dealer submits the tax assigned invoices for credit.

SECTION 7. A new section to chapter 57-43.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

Refund of tax for fuel used for agricultural purposes - Reduction for agricultural fuel tax fund. Any person who buys or uses any motor

vehicle fuel for agricultural purposes, except motor vehicle fuel used in motor vehicles operated or intended to be operated in whole or in part upon any of the public highways of this state on which the motor vehicle fuel tax has been paid, shall be reimbursed or repaid within the time provided in this chapter, the amount of the tax paid upon the presentation to and the approval of the commissioner of a claim for refund. The amount of the tax refund provided for in this section shall be reduced by two cents per gallon [3.79 liters] except for those fuels used in aircraft or with respect to refunds claimed by aircraft fuel users, and the two cents per gallon [3.79 liters] withheld from the refund must be deposited in the agricultural fuel tax fund. Those persons who have a valid tax assignment permit issued by the commissioner under section 57-43.1-11 shall be charged two cents per gallon [3.79 liters] by the dealer and the two cents charged shall be remitted to the commissioner by the dealer when the dealer submits the tax assigned invoices for credit.

SECTION 8. AMENDMENT. Section 57-43.1-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-43.1-06. Refund to prevent double taxation - Reduction for ~~agriculturally derived~~ agricultural fuel tax fund. Any person to whom special fuel or motor vehicle fuel is sold on which the tax imposed by this chapter or chapter 57-43.2 has been paid who thereafter removes the fuel from this state to a state which requires payment of a tax upon the use of the fuel in that state shall be granted a refund of the tax that was paid pursuant to this chapter or chapter 57-43.2. The refund of tax paid pursuant to this chapter shall be reduced by the ~~amount~~ amounts provided in ~~section~~ sections 57-43.1-03 and section 7 of this Act, and the reduction shall be deposited in the ~~agriculturally derived~~ agricultural fuel tax fund. The refund shall be granted only upon application to the commissioner on forms prescribed by the commissioner, including proof of payment of the tax imposed by the other state, and is subject to the limitations provided in section 57-43.1-05. The tax provided for in section 57-43.2-03 shall not be levied on sales of any such fuel for which a refund of tax is made pursuant to this section.

SECTION 9. APPROPRIATION. The funds provided in this section, or so much thereof as may be necessary, are hereby appropriated out of any moneys in the agricultural fuel tax fund, in the state treasury, not otherwise appropriated, to the North Dakota agricultural products utilization commission for the purpose of defraying the expenses thereof, for the biennium beginning July 1, 1989, and ending June 30, 1991, as follows:

Operating expenses	\$ 47,950
Contract personnel	72,000
Ethanol incentive program audit	2,000
Basic and applied research grants	751,920
Utilization and marketing grants	250,640
Ethanol incentive program	<u>3,750,000</u>

Total appropriation from the agricultural fuel tax fund \$ 4,874,510

SECTION 10. APPROPRIATION. All income received in excess of the amounts appropriated in section 9 of this Act is hereby appropriated to the North Dakota agricultural products utilization commission for

research, marketing, and utilization grants for the biennium beginning July 1, 1989, and ending June 30, 1991. Any funds received require the approval of the budget section of the legislative council before they can be spent.

SECTION 11. APPROPRIATION - TRANSFER. In addition to other transfers from the highway tax distribution fund approved by the fifty-first legislative assembly for the purpose of providing production subsidies to North Dakota ethanol plants, there is hereby appropriated \$250,000, or so much thereof as may be necessary, from the highway tax distribution fund, which shall be transferred by the office of management and budget at the request of the agricultural products utilization commission to the agricultural fuel tax fund for the purpose of providing production subsidies to North Dakota ethanol plants for the biennium beginning July 1, 1989, and ending June 30, 1991. The funds transferred shall be used in the same manner as the transfer provided for in section 5 of House Bill No. 1415 approved by the fifty-first legislative assembly."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

DEPARTMENT 612 - NORTH DAKOTA AGRICULTURAL PRODUCTS UTILIZATION COMMISSION

This amendment revises Chapter 4-14.1 by providing that the purpose of the Agricultural Products Utilization Commission is to provide assistance in research, marketing, and utilization of agricultural products in order to develop new uses for agricultural products and byproducts.

In addition, this amendment increases the agricultural motor vehicle fuel tax refund reduction by 1.5 cents per gallon, from .5 cent to 2 cents and provides funding for the Agricultural Products Utilization Commission from the agricultural fuel tax fund as follows:

<u>Operating expenses</u>	
Commission member reimbursement	\$ 7,950
Other operating costs	40,000
Total operating expenses	<u>\$ 47,950</u>
<u>Contract personnel</u>	<u>\$ 72,000</u>
<u>Ethanol incentive program audit</u>	<u>\$ 2,000</u>
<u>Grants</u>	
Basic and applied research	\$ 751,920
Utilization and marketing	250,640
Total grants	<u>\$ 1,002,560</u>
<u>Ethanol incentive program*</u>	<u>\$ 3,750,000</u>
Total appropriation from the agricultural fuel tax fund	\$ 4,874,510

A section is added providing that any additional income received by the commission may be spent only upon approval of the Budget Section.

*In addition to a \$3.5 million transfer from the highway tax distribution fund to the agricultural fuel tax fund provided in House Bill No. 1415 to be used for payments to North Dakota ethanol producers for ethanol sold in North Dakota, this amendment provides a \$250,000 transfer from the highway tax distribution fund to also be used for payments to North Dakota ethanol producers in accordance with House Bill No. 1415.

For the Senate: Sens. W. Meyer, Axtman, Vosper
For the House: Reps. Nicholas, Schmidt, Marks

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

SECOND READING OF HOUSE BILL

HB 1200: A BILL for an Act to create and enact a new section to chapter 57-43.1 of the North Dakota Century Code, relating to motor vehicle fuel tax refunds to farm operators; to amend and reenact sections 4-14.1-01, 4-14.1-02, 4-14.1-03, 4-14.1-04, 4-14.1-05, 57-43.1-03, and 57-43.1-06 of the North Dakota Century Code, relating to the North Dakota agricultural products utilization commission, agricultural fuel tax fund, refunds of motor vehicle fuels taxes, and allocation of a portion of motor fuel tax refunds to the agricultural fuel tax fund; and to provide an appropriation.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 38 YEAS, 14 NAYS, 1 ABSENT AND NOT VOTING.

YEAS: Axtman; Dotzenrod; Ewen; Hanson; Heigaard; Heinrich; Hilken; Holmberg; Ingstad; Keller; Kelsh; Kinnoin; Krauter; Krebsbach; Langley; Lips; Maixner; Mathern; Maxson; Meyer, D.; Meyer, J.; Meyer, W.; Mushik; O'Connell; Olson; Redlin; Richard; Robinson; Satrom; Schoenwald; Stenhjem; Stromme; Tallackson; Thane; Vosper; Waldera; Wogsland; Yockim

NAYS: David; Freborg; Lodoen; Moore; Mutch; Naaden; Nalewaja; Nelson; Nething; Peterson; Shea; Streibel; Tennefos; Todd

ABSENT AND NOT VOTING: Lashkowitz

HB 1200 passed and the title was agreed to.

MESSAGE to the SENATE from the HOUSE (Roy Gilbreath, Chief Clerk)
MR. PRESIDENT: The House accedes to the Senate's request for the return of HCR 3040.

MOTION

SEN. J. MEYER MOVED that the Senate reconsider its action whereby HB 1604 failed to pass, which motion prevailed on a verification vote.

SECOND READING OF HOUSE BILL

HB 1604: A BILL for an Act to provide for a program of comprehensive health education to promote public health and public health awareness in the state.

ROLL CALL

The question being on the final passage of the bill, which has been read, the roll was called and there were 27 YEAS, 26 NAYS, 1 ABSENT AND NOT VOTING.

YEAS: Ewen; Heigaard; Heinrich; Holmberg; Kelsh; Kinnoin; Krebsbach; Langley; Maixner; Mathern; Maxson; Meyer, W.; Mushik; O'Connell; Peterson; Redlin; Richard; Robinson; Satrom; Schoenwald; Stenehjem; Stromme; Tallackson; Waldera; Wogsland; Yockim; President Omdahl

NAYS: Axtman; David; Dotzenrod; Freborg; Hanson; Hilken; Ingstad; Keller; Krauter; Lips; Lodoen; Meyer, D.; Meyer, J.; Moore; Mutch; Naaden; Nalewaja; Nelson; Nething; Olson; Shea; Streibel; Tennefos; Thane; Todd; Vosper

ABSENT AND NOT VOTING: Lashkowitz

HB 1604 passed and the title was agreed to.

MOTIONS

SEN. SATROM MOVED that the Senate reconsider its action whereby SB 2475 passed, which motion prevailed.

SEN. SATROM MOVED that the Senate reconsider the action by which the conference committee report was adopted on SB 2475, which motion prevailed.

SEN. SATROM MOVED that a new conference committee be appointed on SB 2475, which motion prevailed.

APPOINTMENT OF A CONFERENCE COMMITTEE

THE PRESIDENT APPOINTED as a new Conference Committee on SB 2475: Sens. Richard, Robinson, Moore.

FIRST READING OF HOUSE CONCURRENT RESOLUTION

HCR 3090: A concurrent resolution authorizing the retention of certain employees of the House and Senate to allow for the completion of legislative work after the close of the session.
Was read the first time.

MOTION

SEN. MAIXNER MOVED that the rules be suspended, that HCR 3090 not be printed, not be referred to committee, but be read in its entirety, and be printed in the Journal, and placed on the calendar for second reading and final passage, which motion prevailed.

Committee on Employment introduced:
(Approved by the Committee on Delayed Bills)

HOUSE CONCURRENT RESOLUTION NO. 3090

A concurrent resolution authorizing the retention of certain employees of the House and Senate to allow for the completion of legislative work after the close of the session.

WHEREAS, it is necessary to complete and close work of the regular session of the Fifty-first Legislative Assembly; and

WHEREAS, certain legislative employees should be retained to complete and close this work;

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

That the following named positions may be retained by the House of Representatives and the Senate after the adjournment of the regular session:

HOUSE POSITIONS

Chief Clerk
 Assistant Chief Clerk
 Desk Reporter
 Bill Clerk
 Sergeant-at-Arms
 Assistant Sergeant-at-Arms
 Chief Page and Bill Book Clerk
 Chief Stenographer and Payroll Clerk
 Bill Room Clerk
 Appropriations Committee Clerk
 Assistant Appropriations Committee Clerk
 Secretary to Speaker
 Secretary to Majority Leader
 Secretary to Minority Leader
 Chief Telephone Clerk

SENATE POSITIONS

Secretary of the Senate
 Assistant Secretary of the Senate
 Desk Reporter
 Bill Clerk
 Desk Page
 Sergeant-at-Arms
 Assistant Sergeant-at-Arms
 Assistant Sergeant-at-Arms
 Chief Page and Bill Book Clerk
 Chief Stenographer and Payroll Clerk
 Stenographer
 Chief Committee Clerk
 Appropriations Committee Clerk
 Secretary to Majority Leader
 Assistant Secretary to Majority Leader
 Secretary to Minority Leader
 Assistant Secretary to Minority Leader
 Chief Bill and Journal Room Clerk
 Bill Room Clerk

BE IT FURTHER RESOLVED, that the above-listed House and Senate employees shall serve at the request of, and under the supervision of, the Chief Clerk of the House and the Secretary of the Senate, and that all of the listed employees, including the Chief Clerk of the House and the Secretary of the Senate, may not be employed for more than 200 man-days in the aggregate. The Chief Clerk of the House and the Secretary of the Senate shall assign work among the available House and Senate employees, respectively, in the appropriate manner. The Chief Clerk of the House and the Secretary of the Senate shall coordinate the work assignments in their respective houses in such a manner that the total number of man-days utilized does not exceed the aggregate limit on man-days in this resolution. The Chief Clerk of the House

and the Secretary of the Senate shall minimize the days spent in completion of legislative business to the extent consistent with that completion; and

BE IT FURTHER RESOLVED, that the employees in the above-named positions be paid their regular rates of pay as specified in Senate Concurrent Resolution No. 4027 for work pursuant to this resolution, and all of these sums are to be paid out of the appropriation to the Fifty-first and Fifty-second Legislative Assemblies, and after completion of the work, providing that each above-listed employee must be paid on a pro rata basis if the total number of man-days exceeds the aggregate limit.

SECOND READING OF HOUSE CONCURRENT RESOLUTION

HCR 3090: A concurrent resolution authorizing the retention of certain employees of the House and Senate to allow for the completion of legislative work after the close of the session.

ROLL CALL

The question being on the final adoption of the resolution, 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; Heinrich; Hilken; Holmberg; Ingstad; Keller; Kelsh; Kinnoin; Krauter; Krebsbach; Langley; Lips; Lodoen; Maixner; Mathern; Maxson; Meyer, D.; Meyer, J.; Meyer, W.; Moore; Mushik; Mutch; 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: Heigaard; Lashkowitz

HCR 3090 was declared adopted on a roll call vote.

MESSAGE to the SENATE from the HOUSE (Roy Gilbreath, Chief Clerk)
MR. PRESIDENT: The Speaker has signed and your signature is respectfully requested: HB 1660.

MOTIONS

SEN. MAIXNER MOVED that the vote by which SB 2153, SB 2222, SB 2237, HB 1369, SB 2022, SB 2412, and HB 1200 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 2153, SB 2222, SB 2237, HB 1369, SB 2022, SB 2412, SB 2539, HB 1200, and HB 1604 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 2222 and SB 2237 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 1369.

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

MR. SPEAKER: The Senate has concurred in the House amendments to SB 2412 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.

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

MR. SPEAKER: The Senate has concurred in the House amendments to SB 2222 and SB 2539 and subsequently passed the same.

The Senate does not concur in the House amendments to SB 2332 and SB 2455 and the President has appointed as a conference committee to act with a like committee from the House on:

SB 2332: Sens. Maxson, J. Meyer, Stenehjem
SB 2455: Sens. Dotzenrod, Robinson, Ingstad

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

MR. SPEAKER: The Senate does not concur in the House amendments to SB 2243 and the President has appointed as a conference committee to act with a like committee from the House on:

SB 2243: Sens. Satrom, Hilken, Mutch

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

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

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

MR. SPEAKER: The Senate has passed unchanged: HB 1604.

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.

SIGNING of BILLS and RESOLUTIONS (Patricia Conrad, Secretary)

THE SECRETARY ANNOUNCED that the President signed the following enrolled bills: HB 1012, HB 1021, HB 1077, HB 1155, HB 1185, HB 1205, HB 1449, HB 1558, HB 1564, HB 1581.

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

MR. SPEAKER: The President has signed: HB 1012, HB 1021, HB 1077, HB 1155, HB 1185, HB 1205, HB 1449, HB 1558, HB 1564, HB 1581.

SIGNING of BILLS and RESOLUTIONS (Patricia Conrad, Secretary)

THE SECRETARY ANNOUNCED that the President signed the following enrolled bill: HB 1660.

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

MR. SPEAKER: The President has signed: HB 1660.

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

MR. SPEAKER: The Senate has reconsidered its action whereby it passed SB 2475. The Senate has reconsidered its action whereby it adopted the

conference committee report on SB 2475 and now has not adopted the conference committee report on SB 2475. The President has appointed as a new conference committee to meet with a like committee from the House on:

SB 2475: Sens. Richard, Robinson, Moore

APPOINTMENT OF CONFERENCE COMMITTEES

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 1036, which motion prevailed.

THE PRESIDENT APPOINTED as a Conference Committee on HB 1036: Sens. D. Meyer, Lodoen, Vosper.

SEN. HEINRICH MOVED that the President appoint a committee of three to act with a like committee from the House as a Conference Committee on HB 1637, which motion prevailed.

THE PRESIDENT APPOINTED as a Conference Committee on HB 1637: Sens. O'Connell, Kelsh, Peterson.

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 1036: Sens. D. Meyer, Lodoen, Vosper

HB 1637: Sens. O'Connell, Kelsh, Peterson

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 2455: Reps. A. Hausauer, Timm, Tomac

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

MR. PRESIDENT: The Speaker has signed: SB 2042, SB 2093, SB 2501.

MOTION

SEN. OLSON MOVED that SB 2541 be amended as follows:

Page 1, line 13, after "57-38-30.3" insert ", unless Senate Bill No. 2397 is approved by the fifty-first legislative assembly and its operation is not suspended under article III of the Constitution of North Dakota, in which case the tax imposed by this section is equal to five percent of the taxpayer's income tax liability as determined under section 57-38-29 or 57-38-30.3"

Re-number accordingly

REQUEST

PRESIDENT OMDAHL REQUESTED that his remarks be printed in the Journal.

The Senate has before it an amendment proposed by Senator Olson that links Senate Bill 2397 on Sunday opening with a revenue bill, Senate Bill 2541. It is the opinion of the President that this linkage requires a ruling on germaneness, and let the Journal reflect the remarks of the President. Section 13 of the Legislative Article of the Constitution requires that measures consist of one subject. The purpose is to avoid logrolling within a

bill, just as it prohibits logrolling among members of the legislature. The reason for this provision is to guarantee each legislator the right to vote without being forced to compromise judgment on multiple issues. However, the rules say that the President does not rule on constitutionality. But, section 402 of Mason's says and addresses the subject of germaneness of amendments and they do require a ruling of the President. The President will read paragraphs 1 and 2 of section 402 of Mason's.

"Every amendment proposed must be germane to the subject of the proposition or to the section or paragraph to be amended,...." "To determine whether an amendment is germane, the question to be answered is whether the question is relevant, appropriate, and in a natural and logical sequence to the subject matter of the original proposal."

The question before the Senate and to be considered then is whether the subjects involved in Senate Bill 2541 and Senate Bill 2397 are sufficiently common to satisfy the germaneness test, or do these bills deal with different subjects and therefore violate the germaneness rule?

The President believes that Senate Bill 2541 and Senate Bill 2397 are too dissimilar to have their contents in one measure for the following reasons:

First, the titles and contents reflect different subject matter. Senate Bill 2397 deals with section 5-02-05, dispensing of alcoholic beverages on Sunday and chapter 12.1-30, conducting business on Sunday. Senate Bill 2541 is chapter 57-38 which is a part of the income tax code. The Century Code is organized by subject and the subject of these two bills have different citations which by itself is not overwhelming, but contributes to the general logic testing germaneness.

Second, Senate Bill 2541 purports to raise revenue; Senate Bill 2397 does not. Senate Bill 2397 authorizes a business activity heretofore prohibited that may result in revenue, but such revenue is contingent on local referenda. This bill itself will not raise revenue. It only authorizes activity that may raise revenue. Local voters would still have to decide whether revenue is going to be raised.

Third, the two bills rest upon completely different state powers. Senate Bill 2541 rests on the state power to tax; Senate Bill 2397 rests on the police power of the state. These powers are distinct, and bills drawn from these different powers serve different purposes.

Fourth, the Senators here seated perceive these subjects as separate. Some favor Sunday opening but not a surtax; some favor a surtax but not Sunday opening. These different perspectives can be deduced from the earlier vote on Senate Bill 2397 which divided largely upon rural-urban lines. The bill was perceived primarily as a matter of competition between the business places of smaller communities and those of larger communities. The revenue that may result from the shift of this competition is only a secondary consequence of the measure.

Fifth, intent of this amendment is not to raise revenue but to mitigate a revenue measure.

One of these five points taken by itself may not be sufficient to rule the proposed amendment of Senator Olson in violation of the constitution or the germaneness requirement of Mason's Manual on Legislative Procedure. However, taken together, they provide solid ground for determining that these two

measures cannot be included in one bill. Permitting this amendment would subject Senate Bill 2541, if passed, to judicial challenge on the constitutional requirement. A court may also hold that Senate Bill 2397, if passed under these circumstances, would be compromised by this amendment so as to make it invalid. Therefore, the President rules the amendment proposed by Senator Olson as not being sufficiently germane to be considered.

APPEAL

SEN. OLSON APPEALED the decision of the President and requested a verification vote.

The question being on "Shall the decision of the President stand as the judgment of the Senate?"

The appeal, from the decision of the Chair, was lost on a verification vote.

MOTIONS

SEN. HEIGAARD MOVED that SB 2541 be amended as follows:

Page 2, line 16, replace "ending balance" with "revenues"

Page 2, line 19, replace "ending balance" with "revenues"

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

These amendments provide that the income tax surtax is to be contingent upon forecasts of 1989-91 general fund revenues rather than the 1989-91 general fund ending balance.

SEN. HEIGAARD MOVED that the proposed amendments be adopted, which motion prevailed.

SEN. MOORE MOVED that SB 2541 be further amended as follows:

Page 1, line 3, remove "to provide an appropriation;"

Page 1, line 12, replace "ten" with "five"

Page 1, remove lines 20 through 22

Page 2, remove lines 1 through 9

Page 2, line 10, replace "Section 1 of this Act is" with "This Act is effective for the first two taxable years beginning after December 31, 1988, and is thereafter ineffective."

Page 2, remove lines 11 through 21

Renumber accordingly

SEN. MOORE MOVED that the proposed amendments be adopted, which motion lost on a verification vote.

SECOND READING OF SENATE BILL

SB 2541: 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, and trusts; to provide an appropriation; and to provide an effective date and an expiration date.

ROLL CALL

The question being on the final passage of the amended bill, which has been read and has committee recommendation of DO PASS, the roll was called and there were 35 YEAS, 17 NAYS, 1 ABSENT AND NOT VOTING.

YEAS: Axtman; Dotzenrod; Ewen; Hanson; Heigaard; Heinrich; Hilken; Holmberg; Ingstad; Keller; Kelsh; Kinnoin; Krauter; Langley; Maixner; Mathern; Maxson; Meyer, J.; Meyer, W.; Mushik; Naaden; Nething; O'Connell; Redlin; Richard; Robinson; Satrom; Schoenwald; Shea; Stenehjem; Stromme; Tallackson; Waldera; Wogsland; Yockim

NAYS: David; Freborg; Krebsbach; Lips; Lodoen; Meyer, D.; Moore; Mutch; Nalewaja; Nelson; Olson; Peterson; Streibel; Tennefos; Thane; Todd; Vosper

ABSENT AND NOT VOTING: Lashkowitz

SB 2541 lost for lack of a two-thirds majority.

APPOINTMENT OF CONFERENCE COMMITTEE

SEN. TALLACKSON MOVED that the President appoint a committee of three to act with a like committee from the House as a Conference Committee on HB 1024, which motion prevailed.

THE PRESIDENT APPOINTED as a Conference Committee on HB 1024: Sens. Yockim, Stromme, Thane.

MOTION

SEN. MAIXNER MOVED that the conference committee on HB 1036 be dissolved and a new conference committee be appointed, which motion prevailed.

APPOINTMENT OF A CONFERENCE COMMITTEE

THE PRESIDENT APPOINTED as a new Conference Committee on HB 1036: Sens. Maixner, Heinrich, Vosper.

MOTION

SEN. MAIXNER MOVED that the Senate stand at recess until 5:00 p.m., which motion prevailed.

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

MESSAGE to the HOUSE from the SENATE (Perry Grotberg, Asst. Secretary)

MR. SPEAKER: The President has dissolved the Conference Committee on HB 1036 and has appointed as a new conference committee to act with a like committee from the House on:

HB 1036: Sens. Maixner, Heinrich, Vosper

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

MR. PRESIDENT: The House has passed and your favorable consideration is requested on: HB 1669.

70th DAY

FRIDAY, APRIL 14, 1989

1903

MESSAGE to the SENATE from the HOUSE (Roy Gilbreath, Chief Clerk)
MR. PRESIDENT: The House has amended and subsequently passed: SB 2536.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 57-51 of the North Dakota Century Code, relating to the taxation of the federal land bank.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 57-51 of the North Dakota Century Code is hereby created and enacted to read as follows:

Type of tax. For purposes of interpreting chapter 785 of the 1987 Session Laws, relating to federal land bank taxation and to the taxation of other governmental entities if their immunity from taxation has been waived, the gross production tax is a real property tax on oil and gas producing mineral estates and interests."

Renumber accordingly

MESSAGE to the SENATE from the HOUSE (Roy Gilbreath, Chief Clerk)
MR. PRESIDENT: The House has adopted the conference committee report on HB 1089 and subsequently failed to pass the same.

MESSAGE to the SENATE from the HOUSE (Roy Gilbreath, Chief Clerk)
MR. PRESIDENT: The House has adopted the conference committee report on SB 2153 and subsequently passed the same.

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 2243: Reps. Timm, Dorso, V. Thompson
SB 2332: Reps. Aas, Shaft, A. Williams

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 2475: Reps. Goetz, A. Hausauer, Tomac

MESSAGE to the SENATE from the HOUSE (Roy Gilbreath, Chief Clerk)
MR. PRESIDENT: The House has adopted the conference committee report on HB 1006, HB 1058, HB 1164, HB 1267, HB 1297, and HB 1499 and subsequently passed the same.

REPORTS OF CONFERENCE COMMITTEES

MR. PRESIDENT: Your Conference Committee to which was referred Engrossed HB 1006 has had the same under consideration and recommends that the HOUSE ACCEDE to the Senate amendments as found on pages 1542-1543 of the Senate Journal.

For the Senate: Sens. Stromme, Shea, Thane

For the House: Reps. Sorensen, Dalrymple, Watne (refused to sign)

Engrossed HB 1006 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 Reengrossed HB 1058 has had the same under consideration and recommends that the SENATE RECEDE from the Senate amendments as found on pages 1234-1235 of the Senate Journal and that Reengrossed HB 1058 be amended as follows:

Page 1, line 2, after the semicolon insert "to provide for a statement of legislative intent regarding the funding of the vulnerable adult protective services program;"

Page 3, line 16, after the second "or" insert "lack of"

Page 12, line 8, after "Act" insert "with respect to any region, area, or county of this state"

Page 12, line 9, after "Act" insert "within that region, area, or county"

Page 12, after line 9, insert:

"SECTION 15. LEGISLATIVE INTENT - PROGRAM FUNDING. It is the intent of the legislative assembly that \$150,000 of the appropriation to the department of human services, as contained in Senate Bill No. 2538, shall be used to continue the adult protective service demonstration program, pursuant to this Act, as initially authorized by section 2 of chapter 293 of the 1987 Session Laws of North Dakota, in Cass County and the multicounty region served by the Lake Region human service center."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

DEPARTMENT 325 - DEPARTMENT OF HUMAN SERVICES

This amendment provides a section of legislative intent that \$150,000 of the appropriation contained in Senate Bill No. 2538 be used to fund the vulnerable adult protective services program, limits the implementation and enforcement of this Act to those areas receiving funding, and clarifies the definition of "neglect."

For the Senate: Sens. Mathern, Heinrich, Peterson

For the House: Reps. Sorensen, R. Larson, Kelly

Reengrossed HB 1058 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 1164 has had the same under consideration and recommends that the SENATE RECEDE from the Senate amendments as found on pages 1543-1545 and page 1607 of the Senate Journal and that Engrossed HB 1164 be amended as follows:

Page 1, line 1, after "to" insert "create and enact a new subdivision to subsection 1 of section 57-38-01.3 and a new subsection to section 57-38-01.3 of the North Dakota Century Code, relating to net operating loss deductions and special deductions; and to" and after "reenact" insert "subsection 4.2 of section 57-38-01,"

Page 1, remove line 2

Page 1, line 4, after "to" insert "alternative minimum taxable income and"

Page 1, after line 5, insert:

"SECTION 1. AMENDMENT. Subsection 4.2 of section 57-38-01 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

- 4.2. "North Dakota alternative minimum taxable income" in the case of corporations means alternative minimum taxable income as computed under the Internal Revenue Code provisions in effect at the close of the corporation's taxable year, reduced by any interest received from obligations of the United States included in alternative minimum taxable income or in the computation of alternative minimum taxable income on the federal return, ~~as~~ reduced by the federal income tax deduction computed under subdivision c of subsection 1 of section 57-38-01.3, increased by the amount of any net operating loss deductions to the extent that those items were deducted in determining federal alternative minimum taxable income, increased by the amount of any special deductions to the extent that those items were deducted in determining federal alternative minimum taxable income, and either increased or decreased by the adjustments provided in subdivisions a and b of subsection 3 of section 57-38-01 and subdivision g of subsection 1 of section 57-38-01.3, with the remaining amount apportioned to North Dakota by the same fraction computed under the provisions of chapter 57-38, 57-38.1, or 57-59. The sum calculated pursuant to this subsection must be reduced by the amount of any net operating loss that is attributable to North Dakota sources. If the net operating loss that is attributable to North Dakota sources exceeds the sum calculated pursuant to this subsection, the excess may be carried back or carried forward for the same time period that an identical federal net operating loss may be carried back or carried forward. If a corporation uses an apportionment formula to determine the amount of income that is attributable to North Dakota, the corporation must use the same formula to determine the amount of net operating loss that is attributable to North Dakota. In addition, no deduction may be taken for a carryback or carryforward when determining the amount of net operating loss that is attributable to North Dakota sources.

SECTION 2. A new subdivision to subsection 1 of section 57-38-01.3 of the 1987 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

Increased by the amount of any special deductions and net operating loss deductions to the extent that these items were deducted in determining federal taxable income.

SECTION 3. A new subsection to section 57-38-01.3 of the 1987 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

The sum calculated pursuant to subsection 1 of section 57-38-01.3 must be reduced by the amount of any net operating

loss that is attributable to North Dakota sources. If the net operating loss that is attributable to North Dakota sources exceeds the sum calculated pursuant to subsection 1 of section 57-38-01.3, the excess may be carried back or carried forward for the same time period that an identical federal net operating loss may be carried back or carried forward. If a corporation uses an apportionment formula to determine the amount of income that is attributable to North Dakota, the corporation must use the same formula to determine the amount of net operating loss that is attributable to North Dakota. In addition, no deduction may be taken for a carryback or carryforward when determining the amount of net operating loss that is attributable to North Dakota sources."

Page 2, remove lines 17 through 29

Page 3, remove lines 1 through 29

Reumber accordingly

For the Senate: Sens. Maixner, Satrom, Moore

For the House: Reps. A. Hausauer, R. Anderson, Hokana

Engrossed HB 1164 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 1267 has had the same under consideration and recommends that the SENATE RECEDE from the Senate amendments as found on pages 1501-1502 of the Senate Journal and that Engrossed HB 1267 be amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 57-39.2 of the North Dakota Century Code, relating to a refund of sales tax for purchases made by residents of Canada; and to amend and reenact subsection 12 of section 57-39.2-04 of the North Dakota Century Code, relating to a sales tax exemption for purchases made by residents of certain adjoining states.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 12 of section 57-39.2-04 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

12. Gross receipts from ~~all sales~~ a sale otherwise taxable under this chapter ~~when~~ made to ~~persons~~ a person who are residents is a resident of an adjoining states state which do does not impose or levy a retail sales tax ~~or are residents of Canada; provided that such persons are~~ under the following conditions:

- a. The nonresident is in the state of North Dakota for the express purpose of making such purchases a purchase, and not as tourists; and provided, further, that any such person furnish a tourist.

- b. The nonresident furnishes to the North Dakota retailer a certificate signed by him the nonresident in such a form as the commissioner may prescribe reciting sufficient facts establishing the exempt status of the sale. Unless such the certificate is furnished it shall be presumed, until the contrary is shown, that such person the nonresident was not in the state of North Dakota for the express purpose of making such purchases; provided, further, that this exemption shall not apply to any a purchase.
- c. The sale to any person who is a resident of another state if the sales price is twenty-five dollars or less or to any person who is a resident of Canada if the sales price is twenty-five dollars or less is fifty dollars or more.

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:

Refunds for Canadian residents. The tax imposed under this chapter on gross receipts from sales made to a person who is a resident of Canada may be refunded under the following conditions:

1. The Canadian resident was in North Dakota for the express purpose of making a purchase, and not as a tourist.
2. The goods will be removed from North Dakota within thirty days of purchase and will be used permanently outside North Dakota.
3. The Canadian resident applies in writing to the commissioner on a form as the commissioner may prescribe reciting sufficient facts establishing the exempt status of the sale.
4. The qualifying sale is one in which the total gross receipts from each individual transaction, which may involve one or more items, equals twenty-five dollars or more.
5. The refund is fifteen dollars or more. Qualifying sales may be accumulated for periods not in excess of one calendar year in order to reach the fifteen dollar limit.
6. Notwithstanding the provisions of section 57-39.2-23, the commissioner may provide names and addresses of Canadian residents claiming a North Dakota sales tax refund to the director of tourism."

Renumber accordingly

For the Senate: Sens. Richard, Maixner, Ingstad

For the House: Reps. Haugen, A. Olson, Tomac

Engrossed HB 1267 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 Senate Reengrossed HB 1297 has had the same under consideration and recommends that the HOUSE ACCEDE to the Senate amendments as found on pages 1511-1514 and

1712-1713 of the Senate Journal and that Senate Reengrossed HB 1297 be further amended as follows:

Page 1, line 3, remove "and" and after "appropriation" insert "; and to provide an expiration date"

Page 1, after line 11, insert:

"1. "Administrator" means the manager of the state fire and tornado fund."

Page 1, line 15, after the period insert "The term does not include the repair or replacement of damaged equipment."

Page 3, line 22, after "members" insert ", two of whom are active in petroleum marketing,"

Page 4, line 1, replace "commissioner of" with "administrator"

Page 4, line 2, remove "insurance" and replace "commissioner" with "administrator"

Page 4, remove line 5

Page 4, line 6, replace "commissioner" with "administrator"

Page 4, line 8, replace "commissioner of insurance" with "administrator"

Page 4, line 9, remove ", under chapter 28-32,"

Page 4, line 15, replace "commissioner of insurance" with "administrator"

Page 5, line 6, replace "commissioner of insurance" with "administrator"

Page 5, line 9, replace "commissioner of insurance" with "administrator"

Page 5, line 10, replace "commissioner" with "administrator"

Page 5, line 11, replace "commissioner" with "administrator"

Page 5, line 13, replace "commissioner" with "administrator"

Page 5, line 14, remove "of insurance"

Page 5, line 17, replace "commissioner of" with "administrator"

Page 5, line 18, remove "insurance"

Page 5, line 27, replace "commissioner of insurance" with "administrator"

Page 6, line 14, replace "commissioner of insurance" with "administrator"

Page 6, line 16, replace "commissioner of insurance" with "administrator"

Page 6, line 26, replace "commissioner of insurance" with "administrator"

Page 7, line 1, replace "commissioner of insurance" with "administrator"

Page 7, line 7, replace "commissioner of insurance" with "administrator"

Page 7, line 26, replace "commissioner of insurance" with "administrator"

Page 8, line 23, replace "commissioner of insurance" with "administrator"

Page 8, line 25, replace "commissioner of" with "administrator"

Page 8, line 26, remove "insurance"

Page 9, line 1, replace "commissioner of" with "administrator"

Page 9, line 2, remove "insurance"

Page 9, line 12, replace "commissioner of insurance" with "administrator"

Page 9, line 17, replace "commissioner of insurance" with "administrator"

Page 9, line 20, replace "Commissioner of insurance" with "Administrator"

Page 9, line 21, replace "commissioner of" with "administrator"

Page 9, line 22, remove "insurance"

Page 10, line 7, replace "commissioner of insurance" with "administrator"

Page 10, line 13, replace "commissioner of insurance" with "administrator"

Page 10, line 14, replace "commissioner of insurance" with "administrator"

Page 10, line 20, replace "Commissioner of insurance" with "Administrator"

Page 10, line 21, replace "commissioner of insurance" with "administrator"

Page 10, line 28, replace "commissioner of insurance" with "administrator and the board"

Page 11, line 4, replace "commissioner of insurance" with "administrator"

Page 11, line 10, replace "commissioner of insurance" with "administrator"

Page 11, after line 11, insert:

"SECTION 33. EXPIRATION DATE. This Act is effective through June 30, 1991, and after that date is ineffective."

Re-number accordingly

For the Senate: Sens. D. Meyer, O'Connell, Todd

For the House: Reps. Goetz, Tollefson, Nelson

Senate Reengrossed HB 1297 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 1499 has had the same under consideration and recommends that the HOUSE ACCEDE to the Senate amendments as found on pages 1529-1532 of the Senate Journal.

For the Senate: Sens. Satrom, Dotzenrod, Moore
 For the House: Reps. Goetz, A. Hausauer, Tomac

Engrossed HB 1499 was placed on the Seventh order of business on the calendar for the succeeding legislative day.

MOTIONS

SEN. WOGSLAND MOVED that HB 1040 be further amended as follows:

In addition to the amendments adopted by the Senate as printed on page 1311 of the Senate Journal, reengrossed House Bill No. 1040 is further amended as follows:

Page 1, line 10, after "branch" insert "and shall financially assist certain ambulance services licensed under this chapter as determined by the branch in obtaining equipment"

Page 1, line 14, replace "training" with "equipment"

Page 1, remove line 16

Page 1, line 17, replace "training" with "the amount of funds available for identified equipment acquisitions. The health services branch shall adopt a schedule of eligibility for financial assistance for equipment. The schedule must provide for a direct relationship between the number of responses during the preceding calendar year for the purpose of rendering medical care, transportation, or both, to individuals who were sick or incapacitated and the amount of funds certified. The schedule must require that as the number of such responses increases, a greater amount of funds certified is required. The schedule must classify responses and the financial assistance available for various classifications. The health services branch may establish minimum and maximum amounts of financial assistance to be provided an ambulance service under this section"

Reumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

This amendment removes the 50 percent matching requirement for training grants. The Health Services Branch will still have the authority to prorate the funds among the applicants on a yearly basis.

This amendment also provides authorization for equipment grants, within the limits of legislative appropriation, on a matching basis as recommended by the Legislative Council's interim Budget Committee on Institutional Services.

SEN. WOGSLAND MOVED that the proposed amendments be adopted, which motion prevailed.

SECOND READING OF HOUSE BILLS

HB 1040: A BILL for an Act to create and enact a new section to chapter 23-27 of the North Dakota Century Code, relating to state assistance to licensed ambulance services.

ROLL CALL

The question being on the final passage of the amended bill, which has been read and has committee recommendation of DO PASS, the roll was called and there were 52 YEAS, 0 NAYS, 1 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; Mutch; 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

HB 1040 passed and the title was agreed to.

HB 1017: A BILL for an Act making an appropriation for the homestead tax credit.

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 52 YEAS, 0 NAYS, 1 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; Mutch; 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

HB 1017 passed and the title was agreed to.

HB 1674: A BILL for an Act to suspend sections 4, 6, 7, and 8 of chapter 687 of the 1987 Session Laws, relating to separate and additional sales, use, motor vehicle excise, and aircraft excise taxes; to provide an effective date; and to declare an emergency.

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 52 YEAS, 0 NAYS, 1 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; Mutch; 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

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

MOTION

SEN. D. MEYER MOVED that SB 2531 be amended as follows:

Page 1, line 3, replace "an" with "a contingent" and after the second semicolon insert "and"

Page 1, line 4, remove "; and to declare an emergency"

Page 1, line 9, replace "corporation" with "equity development corporation as established in Senate Bill No. 2234"

Page 1, line 10, replace "rural area development corporation" with "equity development corporation as established in Senate Bill No. 2234"

Page 1, line 13, after "product" insert "or service"

Page 1, remove lines 19 through 22

Page 2, remove lines 1 through 24

Page 2, line 27, after "directors" insert "of the equity development corporation for purposes of this Act"

Page 2, line 29, replace "13" with "10"

Page 3, line 4, replace "13" with "10"

Page 3, line 12, replace "13" with "10"

Page 3, remove line 16

Page 3, line 18, replace "Rural" with "Tourism, historical, and recreational"

Page 4, line 10, after "reservations" insert "and recognized Indian communities"

Page 4, remove lines 11 through 16

Page 4, line 23, replace "Rural" with "Tourism, historical, and recreational"

Page 4, line 26, after "areas" insert "targeted for tourism, historical, and recreational purposes"

Page 4, line 27, remove "targeted for"

- Page 4, line 28, remove "tourism, historical, and recreational activities in rural areas"
- Page 5, line 18, replace "13" with "10"
- Page 5, line 23, after "appropriated" insert ", subject to the availability of state general fund revenues as provided in section 12 of this Act,"
- Page 5, line 26, replace "13" with "10"
- Page 5, line 28, replace "8,000,000" with "6,000,000"
- Page 5, line 29, replace "2,000,000" with "1,000,000"
- Page 6, remove line 1
- Page 6, line 2, replace "2,000,000" with "500,000"
- Page 6, line 3, replace "Rural" with "Tourism, historical, and recreational" and replace "2,000,000" with "500,000"
- Page 6, line 4, replace "1,000,000" with "500,000"
- Page 6, line 6, replace "1,000,000" with "500,000"
- Page 6, line 7, replace "2,000,000" with "1,000,000"
- Page 6, line 9, replace "20,000,000" with "10,000,000"
- Page 6, replace lines 10 through 14 with:

"SECTION 12. CONTINGENT APPROPRIATION. The amounts appropriated in section 11 of this Act shall be made available only upon determination by the director of the office of management and budget that estimated general fund revenues for the biennium ending June 30, 1991, are greater than estimated at the close of the fifty-first legislative assembly and shall be available only to the extent general fund revenues exceed original estimates by at least \$11,000,000, with only the amount in excess of \$11,000,000, up to a total of \$10,000,000, available for the purpose of this Act. The director of the office of management and budget shall, prior to July 1, 1990, make a revised estimate of general fund revenues for the biennium ending June 30, 1991, shall report the amount of revenues he expects in excess of estimates, and shall inform the equity development corporation of the appropriation available to it for the remainder of the biennium pursuant to the provisions of this Act."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

These amendments delete the Rural Development Corporation board of directors and provide that the Equity Development Corporation established in Senate Bill No. 2234 shall be the board of directors. In addition, the amendments delete the community development block grant matching fund and rename the rural capital improvement fund the tourism, historical, and recreational capital improvement fund. Also, these amendments delete the effective date

and emergency clause and provide that the appropriation is contingent upon general fund revenues exceeding estimates.

In addition, the amendments reduce the contingent general fund appropriation from \$20 million to \$10 million as follows:

	ORIGINAL BILL	AS AMENDED	(REDUCTION)
Regional rural development revolving loan fund	\$ 8,000,000	\$ 6,000,000	\$ (2,000,000)
Indian business development revolving loan fund	2,000,000	1,000,000	(1,000,000)
Community development block grant matching fund	2,000,000	0	(2,000,000)
Rural research and development fund	2,000,000	500,000	(1,500,000)
Tourism, historical, and recreational capital improvement fund	2,000,000	500,000	(1,500,000)
Agricultural diversification and enterprise development fund	1,000,000	500,000	(500,000)
Rural energy development fund	1,000,000	500,000	(500,000)
Rural development administrative and technical assistance fund	2,000,000	1,000,000	(1,000,000)
Total	\$ 20,000,000	\$ 10,000,000	\$(10,000,000)

REQUEST

SEN. HEIGAARD REQUESTED that the Senate divide the amendments to SB 2531, which request was granted.

DIVISION A - The language in SECTION 12 providing a contingent appropriation as follows: "and shall be available only to the extent general fund revenues exceed original estimates by at least \$11,000,000, with only the amount in excess of \$11,000,000"

DIVISION B - Remainder of the amendment.

The question being on the adoption of Division A of the proposed amendments to SB 2531.

Division A of the proposed amendments to SB 2531 lost.

The question being on the adoption of Division B of the proposed amendments to SB 2531.

Division B of the proposed amendments to SB 2531 was adopted.

SECOND READING OF SENATE BILL

SB 2531: A BILL for an Act to provide for the establishment of a North Dakota rural area development corporation to administer programs of economic development assistance to rural areas of the state; and to provide an appropriation.

ROLL CALL

The question being on the final passage of the amended bill, which has been read and is PLACED ON THE CALENDAR WITHOUT RECOMMENDATION, the roll was called and there were 44 YEAS, 7 NAYS, 2 ABSENT AND NOT VOTING.

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

NAYS: Hanson; Heinrich; Lips; Mutch; Redlin; Satrom; Shea

ABSENT AND NOT VOTING: Krauter; Lashkowitz

SB 2531 passed and the title was agreed to.

MESSAGE to the HOUSE from the SENATE (Perry Grotberg, Asst. Secretary)
MR. SPEAKER: The President has appointed as a conference committee to act with a like committee from the House on:

HB 1024: Sens. Yockim, Stromme, Thane

MOTION

SEN. NAADEN MOVED that two floor amendments to SB 2540 be adopted.

REQUEST

SEN. HEINRICH REQUESTED that the Senate divide the amendments to SB 2540, which request was granted.

DIVISION A - FLOOR AMENDMENT TO SB 2540

Page 1, line 7, remove the second "and"

Page 1, line 8, after "penalty" insert "; to provide an appropriation; and to declare an emergency"

Page 11, after line 23, insert:

"SECTION 15. APPROPRIATION. The funds provided in this section, or so much thereof as may be necessary, are hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and other income, to the livestock sanitary board for the purpose of defraying the expenses of the state meat inspection program for the fiscal period beginning with the effective date of this Act and ending June 30, 1991, as follows:

Salaries and wages	\$606,816
Operating expenses	240,000
Equipment	14,400
Total all funds	<u>\$861,216</u>
Less estimated income	430,608
Total general fund appropriation	<u>\$430,608</u>

SECTION 16. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

DEPARTMENT 617 - LIVESTOCK SANITARY BOARD

This amendment declares this Act an emergency measure and provides funding to the Livestock Sanitary Board for the state meat inspection program as follows:

<u>Salaries and wages</u>	
1 FTE veterinary compliance officer/coordinator	\$ 88,200
10 FTE lay meat inspectors	491,400
1 FTE secretary	<u>27,216</u>
Total salaries and wages	\$ 606,816
<u>Operating expenses</u>	
Contract services	\$ 50,000
Supplies	48,000
Telephone, postage, and printing	9,000
Travel	72,000
Inspector and supervisor training	24,000
Repairs	7,000
Insurance	5,000
Rent	<u>25,000</u>
Total operating expenses	\$ 240,000
<u>Equipment</u>	<u>\$ 14,400</u>
Total funding	\$ 861,216

50 percent (\$430,608) of the cost of the state meat inspection program is provided by the state general fund and 50 percent (\$430,608) is to be provided from federal funds.

DIVISION B - FLOOR AMENDMENT TO SB 2540

Page 3, line 1, remove "and appeal"

Page 3, line 6, remove "The establishment may appeal a decision of an"

Page 3, remove lines 7 through 12

Renumber accordingly

The question being on the adoption of Division A of the proposed amendments to SB 2540.

Division A of the proposed amendments to SB 2540 was adopted.

The question being on the adoption of Division B of the proposed amendments to SB 2540.

Division B of the proposed amendments to SB 2540 was adopted.

SECOND READING OF SENATE BILL

SB 2540: A BILL for an Act to create and enact nine new sections to chapter 36-23.1 of the North Dakota Century Code, relating to inspection and condemnation of meat and to injunctions; to amend and reenact sections 36-23.1-01, 36-23.1-02, 36-23.1-03, and 36-23.1-04 of the North Dakota Century Code, relating to inspection of meat and slaughterhouses; to repeal sections 36-23.1-05, 36-23.1-06, and 36-23.1-08 of the North Dakota Century Code, relating to reinspections and the sale of unapproved meat; to provide a penalty; to provide an appropriation; and to declare an emergency.

ROLL CALL

The question being on the final passage of the amended bill, which has been read and has committee recommendation of DO PASS, the roll was called and there were 34 YEAS, 13 NAYS, 6 ABSENT AND NOT VOTING.

YEAS: Axtman; David; Dotzenrod; Ewen; Freborg; Hilken; Holmberg; Ingstad; Kinnoin; Krebsbach; Langley; Lips; Lodoen; Meyer, D.; Meyer, J.; Meyer, W.; Moore; Mushik; Mutch; Naaden; Nelson; Nething; O'Connell; Olson; Peterson; Robinson; Shea; Streibel; Stromme; Tallackson; Tennefos; Thane; Todd; Vosper

NAYS: Hanson; Heinrich; Keller; Maixner; Mathern; Maxson; Nalewaja; Redlin; Satrom; Schoenwald; Stenehjelm; Wogsland; Yockim

ABSENT AND NOT VOTING: Heigaard; Kelsh; Krauter; Lashkowitz; Richard; Waldera

SB 2540 passed, the title was agreed to, but the emergency clause lost.

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

MR. PRESIDENT: The House has adopted the conference committee report on HB 1479 and subsequently passed the same.

REPORT OF CONFERENCE COMMITTEE

MR. PRESIDENT: Your Conference Committee to which was referred Engrossed HB 1479 has had the same under consideration and recommends that the HOUSE ACCEDE to the Senate amendments as found on page 1476 of the Senate Journal.

For the Senate: Sens. Satrom, Maixner, Ingstad
For the House: Reps. A. Hausauer, Timm, W. Williams

Engrossed HB 1479 was placed on the Seventh order of business on the calendar for the succeeding legislative day.

MOTIONS

SEN. HOLMBERG MOVED that the Senate reconsider the action by which HCR 3005 passed, which motion prevailed.

SEN. HOLMBERG MOVED that HCR 3005 be amended as follows:

Page 1, line 20, replace "primary" with "general"

Renumber accordingly

SEN. HOLMBERG MOVED that the proposed amendments be adopted, which motion prevailed.

SECOND READING OF HOUSE CONCURRENT RESOLUTION

HCR 3005: A concurrent resolution for the amendment of section 13 of article IV of the Constitution of North Dakota, relating to the effective date of legislation.

ROLL CALL

The question being on the final adoption of the amended resolution, which has been read, the roll was called and there were 50 YEAS, 0 NAYS, 3 ABSENT AND NOT VOTING.

YEAS: Axtman; David; Dotzenrod; Ewen; Freborg; Hanson; Heigaard; Heinrich; Hilken; Holmberg; Ingstad; Keller; Kelsh; Kinnoin; Krebsbach; Langley; Lips; Lodoen; Maixner; Mathern; Maxson; Meyer, D.; Meyer, J.; Moore; Mushik; Mutch; 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: Krauter; Lashkowitz; Meyer, W.

HCR 3005 was declared adopted on a roll call vote.

MOTIONS

SEN. HOLMBERG MOVED that the Senate reconsider the action by which HCR 3040 passed, which motion prevailed.

SEN. HOLMBERG MOVED that HCR 3040 be further amended as follows:

Page 1, line 19, replace "primary" with "general"

Renumber accordingly

SEN. HOLMBERG MOVED that the proposed amendments be adopted, which motion prevailed.

SECOND READING OF HOUSE CONCURRENT RESOLUTION

HCR 3040: A concurrent resolution for the amendment of section 13 of article VI of the Constitution of North Dakota, relating to the filling of judicial vacancies.

ROLL CALL

The question being on the final adoption of the amended resolution, 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; Freborg; Hanson; Heigaard; Hilken; Holmberg; Ingstad; Keller; Kelsh; Kinnoin; Krebsbach; Lips; Lodoen; Maixner; Mathern; Maxson; Meyer, J.; Moore; Mushik; Mutch; Naaden; Nalewaja; Nelson; Nething; O'Connell; Olson; Peterson; Redlin; Richard; Robinson; Satrom; Schoenwald; Shea; Stenehjem; Streibel; Stromme; Tallackson; Tennefos; Thane; Todd; Vosper; Waldera; Yockim

70th DAY

FRIDAY, APRIL 14, 1989

1919

NAYS: None

ABSENT AND NOT VOTING: Heinrich; Krauter; Langley; Lashkowitz; Meyer, D.; Meyer, W.; Wogsland

HCR 3040 was declared adopted on a roll call vote.

MESSAGE to the SENATE from the HOUSE (Roy Gilbreath, Chief Clerk)
MR. PRESIDENT: The House has failed to pass: SCR 4040.

CONSIDERATION OF AMENDMENTS

SEN. TALLACKSON MOVED that the amendments to HB 1004 as recommended by the Committee on Appropriations as printed on pages 1871-1874 of the Senate Journal be adopted, and when so amended, recommends the same DO PASS, which motion prevailed.

MOTIONS

SEN. STENEHJEM MOVED that HB 1004 be further amended as follows:

Page 1, line 3, after "reenact" insert "subsection 3 of section 19-02.1-14.1" as amended in section 1 of House Bill No. 1298, approved by the fifty-first legislative assembly, and"

Page 1, line 4, after "to" insert "print size requirements for legends on drug prescription forms and"

Page 3, after line 15, insert:

"SECTION 6. AMENDMENT. Subsection 3 of section 19-02.1-14.1 of the 1987 Supplement to the North Dakota Century Code as amended in section 1 of House Bill No. 1298, as approved by the fifty-first legislative assembly, is hereby amended and reenacted to read as follows:

3. If a practitioner prescribes a drug by its brand name, the pharmacist may exercise professional judgment in the economic interest of the patient by selecting a drug product with the same generic name and demonstrated therapeutical equivalency as the one prescribed for dispensing and sale to the patient unless the practitioner specifically indicates in the practitioner's own handwriting "brand necessary" on a written prescription or expressly indicates that an oral prescription is to be dispensed as communicated. The pharmacist shall note the instructions on the file copy of the prescription. A reminder legend must be placed on all prescription forms. The legend must state: "In order to require that a brand name product be dispensed, the practitioner must handwrite the words 'brand necessary'." The legend printed on the prescription form must be in at least ~~sixteen point~~ six-point uppercase print. The pharmacist shall not substitute a generic name drug product unless its price to the purchaser is less than the price of the prescribed drug product. In addition, a pharmacist shall not substitute drug products in the following dosage forms: enteric coated tablets, controlled release products, injectable suspensions other than antibiotics, suppositories containing active ingredients

for which systemic absorption is necessary for therapeutic activity, and different delivery systems for aerosol and nebulizer drugs. In the event that any drug listed above is, subsequent to January 1, 1982, determined to be therapeutically equivalent, then the previously mentioned substitution ban shall be automatically removed for that drug. The pharmacist shall inform the person receiving the drug when a prescription for a brand name drug product does not require that the prescribed drug be dispensed and of the person's right to refuse a generic name drug product selected by the pharmacist. The pharmacy file copy of every prescription shall include the brand name, if any, or the name of the manufacturer, packer, or distributor of the generic name drug dispensed. A pharmacist who selects and dispenses a therapeutically equivalent generic name drug product shall assume no greater liability for selecting the dispensed drug product than would be incurred in filling a prescription for a drug product prescribed by its generic name. The practitioner is not liable for the substitution made by a pharmacist."

Renumber accordingly

SEN. STENEHJEM MOVED that the proposed amendments be adopted, which motion prevailed.

MOTIONS

SEN. HEIGAARD MOVED that HB 1004 be further amended as follows:

In addition to the amendments to engrossed House Bill No. 1004, engrossed House Bill No. 1004 is amended as follows:

Page 1, line 5, remove "and"

Page 1, line 6, after "and" insert "the state aid distribution fund; to provide"

Page 1, line 7, after "54-44.1-11" insert "; and to provide for an appropriation to various state agencies and institutions for payment of health insurance for part-time employees"

Page 3, after line 15, insert:

"SECTION 6. TRANSFER. There is hereby transferred the sum of \$1,600,000 from the state aid distribution fund to the general fund for the biennium beginning July 1, 1989, and ending June 30, 1991. The money shall be transferred upon the direction of the office of management and budget.

SECTION 7. APPROPRIATION. The sums hereinafter listed, or so much thereof as may be necessary, are hereby appropriated out of any moneys in the general fund and from special funds in the state treasury, not otherwise appropriated, to the agencies and institutions of state government listed below for the purpose of paying health insurance premiums for part-time employees, previously excluded in the executive budget due to Senate Bill No. 2254 which has since been defeated, for the period beginning July 1, 1989, and ending June 30, 1991:

AGENCY	GENERAL FUND	SPECIAL FUNDS	TOTAL
Attorney General	\$ 3,365	\$	\$ 3,365
Director of Institutions	1,198		1,198
Department of Public Instruction	2,483	3,278	5,761
State Library	7,927		7,927
School for the Deaf	19,725		19,725
School for the Blind	29,841		29,841
Veterans' Home	958		958
Department of Human Services	176,519	240,778	417,297
Governor's Office - Protection and Advocacy Project	13,458		13,458
Bank of North Dakota		27,146	27,146
Job Service North Dakota		40,833	40,833
Department of Corrections and Rehabilitation	19,514		19,514
Seed Department		3,365	3,365
Wheat Commission		1,682	1,682
Soil Conservation Committee	1,198		1,198
Industrial Commission		3,365	3,365
Game and Fish Department		3,365	3,365
Parks and Recreation Department	2,395		2,395
Water Commission	3,365		3,365
Highway Department		10,094	10,094
Total	\$281,946	\$333,906	\$615,852"

Renumber accordingly

SEN. HEIGAARD MOVED that the proposed amendments be adopted, which motion prevailed.

SECOND READING OF HOUSE BILL

HB 1004: A BILL for an Act to make an appropriation for defraying the expenses of the various divisions under the supervision of the director of the office of management and budget of the state of North Dakota; to amend and reenact subsection 3 of section 19-02.1-14.1 as amended in section 1 of House Bill No. 1298, approved by the fifty-first legislative assembly, and section 54-14-08 of the North Dakota Century Code, relating to print size requirements for legends on drug prescription forms and the withholding of amounts of state employees' compensation; to provide for a transfer from the preplanning revolving fund and the state aid distribution fund; to provide for an exemption to the provisions of section 54-44.1-11; to provide for an appropriation to various state agencies and institutions for payment of health insurance for part-time employees; to provide for a transfer to the pay equity implementation fund; to provide for a loan from the Bank of North Dakota to match federal disaster funds; 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 41 YEAS, 6 NAYS, 6 ABSENT AND NOT VOTING.

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

NAYS: David; Mutch; Nelson; Streibel; Tennefos; Vosper

ABSENT AND NOT VOTING: Freborg; Krauter; Langley; Lashkowitz; Meyer, D.; Meyer, W.

HB 1004 passed, the title was agreed to, and the emergency clause carried.

CONSIDERATION OF AMENDMENTS

SEN. TALLACKSON MOVED that the amendments to HB 1662 as recommended by the Committee on Appropriations as printed on page 1875 of the Senate Journal be adopted, and when so amended, recommends the same DO NOT PASS, which motion prevailed.

SECOND READING OF HOUSE BILL

HB 1662: A BILL for an Act to amend and reenact section 54-52.1-06 of the North Dakota Century Code, relating to the state contribution for coverage under the uniform group insurance program.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 10 YEAS, 37 NAYS, 6 ABSENT AND NOT VOTING.

YEAS: Kinnoin; Krebsbach; Moore; Mutch; Naaden; Nelson; Nething; Streibel; Tennefos; Vosper

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

ABSENT AND NOT VOTING: Heigaard; Krauter; Langley; Lashkowitz; Meyer, D.; Meyer, W.

HB 1662 lost.

MOTION

SEN. MAIXNER MOVED that HB 1049 be placed on the Sixth order, which motion prevailed.

CONSIDERATION OF AMENDMENTS

SEN. SATROM MOVED that the amendments to HB 1049 as recommended by the Committee on Finance and Taxation as printed on pages 1683-1684 of the Senate Journal be adopted, and when so amended, recommends the same DO PASS, which motion lost.

MOTION

SEN. SATROM MOVED that HB 1049 be amended as follows:

Page 1, line 1, after "10-30.1-04" insert a comma

Page 1, line 2, remove "and" and after "10-30.2" insert "and a new subdivision to subsection 1 of section 57-38-01.2"

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

Page 1, line 6, replace "sections" with "section" and after the first comma insert "subsection 1 of section 10-30.1-05, and sections", remove "subsection 2 of section", and after the third comma insert "10-30.1-08, 10-30.1-09,"

Page 1, line 7, remove "and sections"

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

Page 1, line 20, after "Is" insert "a business which through a process employing knowledge and labor adds value to a product for resale; and

c. Has its principal office in this state and is primarily"

Page 1, line 21, after "business" insert "or an affiliate of a business"

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 2, after line 17, insert:

"SECTION 3. AMENDMENT. Subsection 1 of section 10-30.1-05 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Subject to sections 10-30.1-06, 10-30.1-07, and 10-30.1-08, a taxpayer is entitled to a credit against any state income tax liability which may be imposed on the taxpayer for a particular taxable year that begins after December 31, 1984, if the taxpayer makes an investment in a venture capital corporation. However, a taxpayer that makes an investment on or after the effective date of this Act in a venture capital corporation which has invested in a business or an affiliate of a business that has invested in tax exempt securities is not entitled to a tax credit. Investments by Myron G. Nelson Fund, Incorporated, in a venture capital corporation do not qualify for the tax credit provided by this chapter. Tax credits under this chapter are not subject to payment of interest as provided in section 57-38-35.1."

Page 3, line 1, replace "Subsection 2 of section" with "Section"

Page 3, replace lines 3 through 14 with:

"10-30.1-07. Taxable year for credit.

1. The tax credit must be credited against the taxpayer's income tax liability for the taxable year in which full consideration for the investment in the venture capital corporation is received by the venture capital corporation. If the amount of the tax credit exceeds the taxpayer's tax liability for that taxable year, the amount of the credit which exceeds the tax liability may be ~~carried back or~~ carried forward, to the extent not already used as a credit pursuant to this section, as a credit against the taxpayer's state income tax liability for ~~the three taxable years preceding and the~~ seven taxable years following the taxable year in which full consideration for the investment is received.
2. A taxpayer is eligible for a tax credit under this chapter on the date the venture capital corporation receives full consideration for the investment purchased by the taxpayer in the venture capital corporation. In the event the venture capital corporation must return the taxpayer's investment pursuant to subsection 8 of section 10-30.1-04 or section 2 of this Act, any tax credit taken by a taxpayer for the investment under this chapter plus penalty and interest as provided in section 57-38-45 must be paid to the state tax commissioner; however, the taxpayer is entitled to retain a percentage of the tax credit equal to the percentage of the taxpayer's investment not returned by the venture capital corporation, up to a maximum percentage of ten percent.

SECTION 6. AMENDMENT. Section 10-30.1-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

10-30.1-08. Tax credit limits. The total amount of investments for which tax credits are allowed for all taxpayers under this chapter for the period beginning ~~on July 1, 1985, and ending December 31, 1986, is four million dollars, and for each two-year period thereafter is four million dollars plus up to one million dollars of any investments available for tax credits from the previous two-year period January 1, 1989, and ending December 31, 1990, is seven hundred fifty thousand dollars.~~ If investments in venture capital corporations reported to the state tax commissioner pursuant to section 10-30.1-10 exceed the limits on investments for tax credit imposed by this section, the credit must be allowed to taxpayers in the chronological order of their investments in the venture capital corporations as determined from the forms provided for in section 10-30.1-10.

SECTION 7. 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 4, line 28, overstrike "carried back for not more than three taxable years or"

Page 5, line 21, overstrike "carried back for not more than three taxable years or"

Page 6, line 2, after the underscored period insert "However, the total amount of investments for which tax credits are allowed for all taxpayers under this chapter for the period beginning January 1, 1989, and ending December 31, 1990, is one million two hundred fifty thousand dollars."

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. A new subdivision to subsection 1 of section 57-38-01.2 of the 1987 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

Reduced by the amount, up to a maximum of five thousand dollars for any person or ten thousand dollars if a joint return is filed, of investment made after January 1, 1989, in either a venture capital corporation organized pursuant to chapter 10-30.1 or in the Myron G. Nelson Fund, Incorporated, or a separate legal entity such as a limited partnership created by the Myron G. Nelson Fund, Incorporated, as an affiliate, which entities are organized pursuant to chapter 10-30.2. This deduction may only be taken in the tax year in which the taxpayer qualifies for a credit pursuant to chapters 10-30.1 or 10-30.2. However, a taxpayer that makes an investment on or after the effective date of this Act, in a venture capital corporation which has invested in a business or an affiliate of a business that has invested in tax exempt securities, is not entitled to this deduction.

SECTION 13. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

REQUEST

SEN. SCHOENWALD REQUESTED that the Senate divide the amendments to HB 1049, which request was granted.

DIVISION A

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

Page 2, after line 17, insert:

"SECTION 3. AMENDMENT. Subsection 1 of section 10-30.1-05 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Subject to sections 10-30.1-06, 10-30.1-07, and 10-30.1-08, a taxpayer is entitled to a credit against any state income tax liability which may be imposed on the taxpayer for a particular taxable year that begins after December 31, 1984, if the taxpayer makes an investment in a venture capital corporation. However, a taxpayer that makes an investment on or after the effective date of this Act in a venture capital corporation which has invested in a business or an affiliate of a business that has invested in tax exempt securities is not entitled to a tax credit. Investments by Myron G. Nelson Fund, Incorporated, in a venture capital corporation do not qualify for the tax credit provided by this chapter. Tax credits under this chapter are not subject to payment of interest as provided in section 57-38-35.1."

The language in SECTION 12 creating a new subdivision to subsection 1 of section 57-38-01.2, as follows: "However, a taxpayer that makes an investment on or after the effective date of this Act, in a venture capital corporation which has invested in a business or an affiliate of a business that has invested in tax exempt securities, is not entitled to this deduction."

DIVISION B - The remainder of the amendment.

REQUEST

SEN. MAXSON REQUESTED a recorded roll call vote on the motion to adopt Division A of the proposed amendments to HB 1049, which requested was granted.

ROLL CALL

The question being on the motion to adopt Division A of the proposed amendments to HB 1049, the roll was called and there were 36 YEAS, 12 NAYS, 5 ABSENT AND NOT VOTING.

YEAS: David; Dotzenrod; Ewen; Hanson; Heigaard; Heinrich; Hilken; Ingstad; Keller; Kinnoin; Lips; Lodoen; Maixner; Mathern; Moore; Mushik; Mutch; Naaden; Nalewaja; Nelson; Nething; Olson; Peterson; Richard; Robinson; Satrom; Shea; Stenehjem; Streibel; Tallackson; Thane; Todd; Vosper; Waldera; Wogsland; Yockim

NAYS: Axtman; Freborg; Holmberg; Kelsh; Krebsbach; Maxson; Meyer, J.; O'Connell; Redlin; Schoenwald; Stromme; Tenefos

ABSENT AND NOT VOTING: Krauter; Langley; Lashkowitz; Meyer, D.; Meyer, W.

Division A of the proposed amendments was adopted.

The question then being on the motion to adopt Division B of the proposed amendments to HB 1049.

Division B of the proposed amendments was adopted on a voice vote.

MOTIONS

SEN. SATROM MOVED that HB 1049 be further amended as follows:

Page 1, line 1, after "10-30.1-04" insert a comma

Page 1, line 2, remove "and" and after "10-30.2" insert ", and a new subdivision to subsection 1 of section 57-38-01.2"

Page 1, line 5, after "corporations" insert "and tax exemptions for pension benefits"

Page 1, line 7, remove the second "and" and after "10-30.2-14" insert ", and subdivisions j and l of subsection 1 of section 57-38-01.2"

Page 1, line 10, remove the second "and"

Page 1, line 11, after "Incorporated" insert "and tax exemptions for pension benefits; and to provide an effective date"

Page 7, after line 8, insert:

"SECTION 12. AMENDMENT. Subdivisions j and l of subsection 1 of section 57-38-01.2 of the 1987 Supplement to the North Dakota Century Code are hereby amended and reenacted to read as follows:

- j. Reduced by any amount, up to a maximum of five thousand dollars, received pursuant to the ~~United States Civil Service Retirement Act~~, firemen's relief associations authorized by chapters 18-05 and 18-11, or policemen's pension funds authorized by chapter 40-45 provided, however, that the adjustment provided in this subdivision shall be reduced by any amount received pursuant to the federal Social Security Act.
- l. Reduced by any amount, up to a maximum of five thousand dollars, received by any person ~~sixty~~ fifty years of age or older as retired military personnel pay for service in the United States army, navy, air force, coast guard, or marine corps or reserve components thereof; provided, however, that the adjustment provided in this subdivision shall be reduced by any amount received pursuant to the federal Social Security Act.

SECTION 13. A new subdivision to subsection 1 of section 57-38-01.2 of the 1987 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

Reduced by any amount, up to a maximum of five thousand dollars, received as retirement benefits paid by the United States, a territory or possession or political subdivision thereof, the government of the District of Columbia, or an agency or instrumentality of one or more of the foregoing, other than retired military personnel pay, as exempted in subdivision l; provided, however, that the adjustment provided in this subdivision shall be reduced by any amount received pursuant to the federal Social Security Act.

SECTION 14. EFFECTIVE DATE. Sections 12 and 13 of this Act are effective for taxable years beginning after December 31, 1988."

Renumber accordingly

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

SECOND READING OF HOUSE BILL

HB 1049: A BILL for an Act to create and enact a new subsection to section 10-30.1-04, two new sections to chapter 10-30.2, and two new subdivisions to subsection 1 of section 57-38-01.2 of the North Dakota Century Code, relating to investments made by venture capital corporations and procedures for claiming the income tax credit for investment in the Myron G. Nelson Fund, Incorporated, venture capital corporations, and tax exemptions for pension benefits; to amend and reenact section 10-30.1-01, subsection 1 of section 10-30.1-05, and sections 10-30.1-06, 10-30.1-07, 10-30.1-08, 10-30.1-09, 10-30.2-06, 10-30.2-11, 10-30.2-12, 10-30.2-13, 10-30.2-14, and subdivisions j and l of subsection 1 of section 57-38-01.2 of the North Dakota Century Code, relating to investments made by venture capital corporations and tax credits for investment in the Myron G. Nelson Fund, Incorporated, and venture capital corporations, board of director liability and investment policy of the Myron G. Nelson Fund, Incorporated and tax exemptions for pension benefits; 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 48 YEAS, 0 NAYS, 5 ABSENT AND NOT VOTING.

YEAS: Axtman; David; Dotzenrod; Ewen; Freborg; Hanson; Heigaard; Heinrich; Hilken; Holmberg; Ingstad; Keller; Kelsh; Kinnoin; Krebsbach; Lips; Lodoen; Maixner; Mathern; Maxson; Meyer, J.; Moore; Mushik; Mutch; 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: Krauter; Langley; Lashkowitz; Meyer, D.; Meyer, W.

HB 1049 passed, the title was agreed to, and the emergency clause carried.

MOTIONS

SEN. HEIGAARD MOVED that the vote by which HB 1004, HB 1049, HB 1040, HB 1017, HB 1604, HB 1674, SB 2531, and SB 2540 passed be reconsidered and the motion to reconsider be laid on the table, which motion prevailed.

SEN. HEIGAARD MOVED that the vote by which HB 1662 failed be reconsidered and the motion to reconsider be laid on the table, which motion prevailed.

SEN HEIGAARD MOVED that the rules be suspended and that HB 1004, HB 1049, HB 1040, HB 1017, HB 1604, HB 1674, HB 1662, SB 2531, and SB 2540 be messaged to the House immediately, which motion prevailed.

REQUEST

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

Mr. President, I regret that I will not be present in the Senate tomorrow, Saturday, April 15, for personal reasons involving myself and a family member. Several weeks ago, when I made that commitment to this family member for tomorrow's date, I did not anticipate that we would be in session this long.

I will be back for session on Monday, April 17.

MOTIONS

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

SEN. HEIGAARD MOVED that the Senate be on the Fourth order of business, and at the conclusion of the Fourth 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, the Senate stand adjourned until 8:00 a.m., Saturday, April 15, 1989, which motion prevailed.

PRESENTATION OF PETITIONS AND COMMUNICATIONS

State of North Dakota
OFFICE OF THE GOVERNOR
Bismarck

April 14, 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 14, 1989, I signed the following: SB 2017, SB 2029, SB 2032, SB 2128, SB 2212, SB 2298, SB 2384, SB 2518, SB 2528.

Sincerely,

GEORGE A. SINNER
Governor

REPORTS OF CONFERENCE COMMITTEES

MR. PRESIDENT: Your Conference Committee to which was referred Engrossed SB 2001 has had the same under consideration and recommends that the SENATE ACCEDE to the House amendments as found on page 1674 of the Senate Journal.

For the Senate: Sens. Wogsland, Ewen, Nelson
 For the House: Reprs. Gunsch, Gerntholz, Graba

Engrossed SB 2001 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 Reengrossed SB 2037 has had the same under consideration and recommends that the SENATE ACCEDE to the second set of House amendments as found on page 1652 in the Senate Journal and that the HOUSE RECEDE from the first set of House amendments as found on page 1652 of the Senate Journal and that Reengrossed SB 2037 be amended as follows:

Page 1, line 2, remove ", a new section to chapter 15-59.2"

Page 1, line 5, remove ", sharing of costs by school districts of"

Page 1, line 6, remove "special education programs"

Page 1, line 9, remove "and" and replace "appropriation" with "effective date; and to provide an expiration date"

Page 6, line 14, after the underscored period insert "However, no program may be reimbursed at a lesser rate than that of the prior year, notwithstanding locally initiated program changes, within the limits of legislative appropriations."

Page 11, remove lines 10 through 14

Page 11, replace lines 20 through 25 with:

"SECTION 7. EFFECTIVE DATE. Section 3 of this Act becomes effective on July 1, 1990.

SECTION 8. EXPIRATION DATE. Section 3 of this Act is effective through June 30, 1991, and after that date is ineffective."

Reorder accordingly

For the Senate: Sens. Mathern, Hilken, Peterson
 For the House: Reprs. O. Hanson, Myrdal, Hoffner

Reengrossed SB 2037 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 2062 has had the same under consideration and recommends that the HOUSE RECEDE from the House amendments as found on page 1706 of the Senate Journal and that SB 2062 be amended as follows:

Page 1, line 1, after "Act" insert "to create and enact a new subdivision to subsection 6 of section 26.1-08-03 of the North Dakota Century Code, relating to the powers of the comprehensive health association board of directors; and"

Page 1, line 2, remove "26.1-08-08,"

Page 1, line 4, replace the first comma with "and" and remove ", and"

Page 1, line 5, remove "premium rates"

Page 2, after line 11, insert:

"SECTION 2. A new subdivision to subsection 6 of section 26.1-08-03 of the 1987 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

Exempt, by a two-thirds majority vote, an applicant from the provisions of subsection 4 of section 26.1-08-12 when required under emergency circumstances to allow the applicant access to medical procedures determined to be necessary to preserve life."

Page 10, remove lines 5 through 27

Page 11, line 5, remove the overstrike over "~~six~~" and remove "nine"

Page 11, line 9, remove the overstrike over "~~to a person~~" and insert immediately thereafter "who has lost dependent status under a parent's or guardian's family or group policy and" and remove the overstrike over "~~who has had continuous coverage under~~"

Page 11, line 10, remove the overstrike over "~~a family~~" and "~~or group policy for the twelve-month period~~"

Page 11, remove the overstrike over line 11

Page 11, line 12, remove the overstrike over "~~procedures or~~"

Renumber accordingly

For the Senate: Sens. D. Meyer, Kinnoin, Lodoen

For the House: Reps. Lindgren, Trautman, Marks

SB 2062 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 2261 has had the same under consideration and recommends that the HOUSE RECEDE from the House amendments as found on page 1630 of the Senate Journal and that Engrossed SB 2261 be amended as follows:

Page 3, line 6, after the period insert "However, the survey shall maintain a core and sample library at the university of North Dakota with associated core receiving, processing, and analytical equipment. The survey, in cooperation with the university of North Dakota, shall maintain a geologic literature library and archives at the university of North Dakota. The survey may also maintain a working geologic literature library at a site selected by the industrial commission."

Renumber accordingly

For the Senate: Sens. Maixner, O'Connell, Todd

For the House: Reps. K. Thompson, Payne, Hoffner

Engrossed SB 2261 was placed on the Seventh order of business on the calendar for the succeeding legislative day.

FIRST READING OF HOUSE BILL

HB 1669: A BILL for an Act to authorize the industrial commission acting as the North Dakota building authority to issue loan notes to make funds available for the construction of various buildings and facilities at the North Dakota state penitentiary and for handicapped access projects at the institutions of higher education under the control of the board of higher education; and to declare an emergency.

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

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

PATRICIA CONRAD, Secretary