

JOURNAL OF THE SENATE

Fifty-second Legislative Assembly

* * * * *

Bismarck, April 3, 1991

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

The prayer was offered by Rev. Barry Lee, Church of God of Prophecy, Bismarck.

The roll was called and all members were present except Senator Naaden.

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 2231: Reprs. Brown; Schindler; Nelson

MESSAGE to the SENATE from the HOUSE (Roy Gilbreath, Chief Clerk)
MR. PRESIDENT: The House does not concur in the Senate amendments to HB 1021, HB 1022, and HB 1117, and the Speaker has appointed as a conference committee to act with a like committee from the Senate on:

HB 1021: Reprs. Dalrymple; Rydell; Wilkie
HB 1022: Reprs. Berg, R.; Dorso; Starke
HB 1117: Reprs. Grosz; Freier; Nichols

MESSAGE to the SENATE from the HOUSE (Roy Gilbreath, Chief Clerk)
MR. PRESIDENT: The House has failed to pass: SB 2366.

MESSAGE to the SENATE from the HOUSE (Roy Gilbreath, Chief Clerk)
MR. PRESIDENT: The House has amended and subsequently passed: SB 2541.

Page 1, line 13, after "tabs" insert "at licensed gaming sites where adjusted gross proceeds do not exceed fifty thousand dollars per site per year"

Renumber accordingly

APPOINTMENT OF CONFERENCE COMMITTEE

SEN. SCHOENWALD MOVED that the President appoint a committee of three to act with a like committee from the House as a Conference Committee on HB 1433, which motion prevailed.

THE PRESIDENT APPOINTED as a Conference Committee on HB 1433: Sens. Schoenwald, O'Connell, Tenefos.

CONSIDERATION OF MESSAGE FROM THE HOUSE

SEN. HEINRICH MOVED that the Senate do not concur in the House amendments to Reengrossed SB 2113 as printed on SJ page 1412 and that a conference committee be appointed to meet with a like committee from the House, which motion prevailed.

APPOINTMENT OF CONFERENCE COMMITTEE

THE PRESIDENT APPOINTED as a Conference Committee on SB 2113: Sens Heinrich, Kelsh, Lips.

MOTION

SEN. MEYER MOVED that the Senate reconsider its action whereby SB 2039 failed to pass the conference committee report, which motion lost on a verification vote.

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

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

HB 1433: Sens. Schoenwald; O'Connell; Tennefos

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

MR. SPEAKER: The Senate does not concur in the House amendments to SB 2113, and the President has appointed as a conference committee to act with a like committee from the House on:

SB 2113: Sens. Heinrich; Kelsh; Lips

SECOND READING OF HOUSE BILL

HB 1575: A BILL for an Act to amend and reenact sections 39-04-19, 57-43.1-02, 57-43.1-03.1, and 57-43.2-02 of the North Dakota Century Code, relating to motor vehicle registration fees, tax reductions for fuels that contain a qualifying blend of alcohol, and reductions of refunds of motor vehicle fuels taxes on fuel used for agricultural purposes; to provide an appropriation; and to provide an effective date and an expiration date.

MOTIONS

SEN. WOGSLAND MOVED that the Senate vote on the amendments to HB 1575 no later than 8:33 a.m., which motion prevailed.

SEN. MOORE MOVED that Engrossed HB 1575 be amended as follows:

In lieu of the amendments adopted by the Senate as printed on pages 1057-1059 of the Senate Journal, and in lieu of the proposed amendments to Engrossed House Bill No. 1575 as printed on pages 1381-1383 of the Senate Journal, Engrossed House Bill No. 1575 is amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact sections 57-43.1-02 and 57-43.2-02 of the North Dakota Century Code, relating to elimination of the motor vehicle and special fuel tax reductions for fuels containing a blend of agriculturally derived alcohol.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 57-43.1-02 of the 1990 Special Supplement to the North Dakota Century Code is amended and reenacted as follows:

57-43.1-02. Tax imposed on motor vehicle fuels —~~Tax reduced for certain alcohol-blended fuels.~~

1. Except as otherwise provided in this section, a tax of seventeen cents per gallon [3.79 liters] is imposed on all motor vehicle fuel sold or used in this state.
2. ~~The tax imposed on gasoline sold which contains a minimum ten percent blend of a qualifying alcohol whose purity is at least ninety-nine percent alcohol is reduced in accordance with this subsection and subsection 3. An alcohol is a qualifying alcohol if it is methanol produced from coal or if the taxpayer certifies that it is derived from agricultural products produced entirely in the United States. For qualifying alcohols, the tax is:~~

~~a. from July 1, 1985, through June 30, 1987, eight cents per gallon (3.79 liters) less than the tax imposed under subsection 1;~~

- b- From July 1, 1987, through December 31, 1992, four cents per gallon (3.79 liters) less than the tax imposed under subsection 1.
- c- After December 31, 1992, at the same rate as the tax imposed under subsection 1.
- 3- The tax reduction allowed on gasoline under this section does not apply to gasoline which contains qualifying alcohol manufactured or distilled outside this state, unless the state where the alcohol is manufactured or distilled provides a specific reduction, exemption, credit, or refund from that state's motor vehicle fuels tax for what would be a qualifying alcohol manufactured or distilled in this state. Qualifying alcohols manufactured or distilled in another state are eligible for the tax reduction allowed by this section, but only to the extent that state's specific reduction, exemption, credit, or refund allowance applies to qualifying alcohol manufactured or distilled in this state. The tax reduction allowed by this subsection qualifying alcohol manufactured or distilled in another state cannot exceed the amount specified in subsection 2.
- 4- The dealer shall collect the tax imposed by this section from the consumer on all sales.
- 5- 3. Sales of fuel in the original package may be made to a licensed dealer, and the dealer may collect the tax imposed by this chapter, but on sales in the original package to persons other than licensed dealers, the dealer is liable for the tax.

SECTION 2. AMENDMENT. Section 57-43.2-02 of the 1990 Special Supplement to the North Dakota Century Code is amended and reenacted as follows:

57-43.2-02. Tax imposed - Exemptions.

1. An excise tax of seventeen cents per gallon [3.79 liters] is imposed on the sale or delivery of special fuel to any special fuel user, except that special fuel to be used for heating, agricultural, or railroad purposes or for industrial purposes other than in the performance of a contract with any unit of government is exempt from the tax imposed by this chapter, provided that the sale or delivery of special fuel for use in a motor vehicle is not exempt. For the purpose of determining the tax upon compressed natural gas under this section, one hundred twenty cubic feet [3.40 cubic meters] of compressed natural gas is equal to one gallon [3.79 liters] of other special fuel.
2. The tax on agriculturally derived alcohol if used in a pure state or if blended with another agriculturally derived liquid is:
 - a- Through December 31, 1983, four cents per gallon (3.79 liters) less than the tax imposed under subsection 1.
 - b- From January 1, 1984, through December 31, 1984, five cents per gallon (3.79 liters) less than the tax imposed under subsection 1.
 - c- From January 1, 1985, through December 31, 1985, six cents per gallon (3.79 liters) less than the tax imposed under subsection 1.

- d. ~~From January 1, 1986, through June 30, 1992, four cents per gallon (\$3.79 liters) less than the tax imposed under subsection 1.~~
- e. ~~After June 30, 1992, at the same rate as the tax imposed under subsection 1.~~

3- The tax attaches at the time of sale, delivery, or transfer of title of such special fuel to a special fuel user or unlicensed dealer. The special fuel dealer shall collect the tax from the special fuel user and pay the tax to the commissioner as provided in this chapter.

4- 3. Except as prohibited by section 57-43.1-09 the tax is refundable when used for nonhighway purposes, and the provisions and procedures of chapter 57-43.1 relating to the refund of motor fuel taxes apply to the tax imposed by this chapter, provided that the amount refunded for any special fuel does not include the amount of tax imposed by section 57-43.2-03 on the sale of that fuel."

Renumber accordingly

REQUEST

SEN. MOORE REQUESTED a recorded roll call vote on the motion to adopt the proposed amendments to Engrossed HB 1575, which request was granted.

ROLL CALL

The question being on the motion to adopt the proposed amendments to HB 1575, the roll was called and there were 13 YEAS, 39 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Bowman; David; DeKrey; Hanson, O.; Lindgren; Moore; Mutch; Nalewaja; Nelson; Peterson; Solberg; Streibel; Tenefos

NAYS: Dotzenrod; Evanson; Freborg; Goetz; Graba; Hanson, E.; Heigaard; Heinrich; Holmberg; Ingstad; Jerome; Keller; Kelly; Kelsh; Kinnoin; Krauter; Krebsbach; Langley; Lindaas; Lips; Marks; Mathern; Maxson; Meyer; Mushik; Nething; O'Connell; Redlin; Robinson; Satrom; Schoenwald; Stenehjem; Tallackson; Thane; Tomac; Traynor; Vosper; Wogsland; Yockim

ABSENT AND NOT VOTING: Naaden

The proposed amendments to Engrossed HB 1575 lost.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 42 YEAS, 10 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Bowman; DeKrey; Dotzenrod; Evanson; Freborg; Goetz; Graba; Hanson, E.; Heigaard; Heinrich; Holmberg; Ingstad; Jerome; Keller; Kelly; Kelsh; Kinnoin; Krauter; Krebsbach; Langley; Lindaas; Lindgren; Lips; Marks; Mathern; Maxson; Meyer; Mushik; Nething; O'Connell; Redlin; Robinson; Satrom; Schoenwald; Stenehjem; Tallackson; Thane; Tomac; Traynor; Vosper; Wogsland; Yockim

NAYS: David; Hanson, O.; Moore; Mutch; Nalewaja; Nelson; Peterson; Solberg; Streibel; Tenefos

ABSENT AND NOT VOTING: Naaden

HB 1575 passed and the title was agreed to.

MOTIONS

SEN. KELLER MOVED that the vote by which HB 1532 failed be reconsidered and the motion to reconsider be laid on the table, which motion prevailed.

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

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

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

MR. SPEAKER: The Senate has amended and subsequently failed to pass: HB 1532.

DELIVERY OF ENROLLED BILLS AND RESOLUTIONS

The following resolutions were delivered to the Secretary of State for his filing at the hour of 9:02 a.m., April 3, 1991: SR 3, SCR 4020, SCR 4023, SCR 4041, SCR 4042, SCR 4045, SCR 4069.

SIGNING OF BILLS and RESOLUTIONS

The President signed the following enrolled bills and resolutions: SB 2021, SB 2032, SB 2168, SB 2284, SB 2332, SB 2353, SB 2403, SB 2457, SB 2458, SB 2512, SB 2534, SB 2557, SB 2560, SB 2579, SCR 4001, SCR 4003, SCR 4033, SCR 4036, SCR 4048, SCR 4061, SCR 4072.

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

MR. SPEAKER: The President has signed and your signature is respectfully requested on: SB 2021, SB 2032, SB 2168, SB 2284, SB 2332, SB 2353, SB 2403, SB 2457, SB 2458, SB 2512, SB 2534, SB 2557, SB 2560, SB 2579, SCR 4001, SCR 4003, SCR 4033, SCR 4036, SCR 4048, SCR 4061, SCR 4072.

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

MR. SPEAKER: The Senate has adopted the conference committee report on SB 2324.

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

MR. SPEAKER: The Senate has adopted the conference committee report on SB 2023, SB 2067, SB 2083, SB 2115, SB 2118, SB 2151, and SB 2211 and subsequently passed the same.

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

MR. SPEAKER: The Senate has adopted the conference committee report on SB 2249, SB 2422, SB 2425, and SB 2542 and subsequently passed the same.

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

MR. PRESIDENT: The House has adopted the conference committee report on HB 1051.

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

MR. PRESIDENT: The House has adopted the conference committee report on HB 1053, HB 1073, and HB 1132 and subsequently passed the same.

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

MR. PRESIDENT: The House has concurred in the Senate amendments to HB 1261 and HB 1596 and subsequently passed the same.

CONSIDERATION OF MESSAGE FROM THE HOUSE

SEN. KELSH MOVED that the Senate do not concur in the House amendments to Reengrossed SB 2025 as printed on SJ pages 1357-1358 and that a conference committee be appointed to meet with a like committee from the House, which motion prevailed.

APPOINTMENT OF CONFERENCE COMMITTEE

THE PRESIDENT APPOINTED as a Conference Committee on SB 2025: Sens. Kelsh, Langley, Vosper.

CONSIDERATION OF MESSAGE FROM THE HOUSE

SEN. KELLER MOVED that the Senate do concur in the House amendments to Reengrossed SB 2346 as printed on SJ page 1358, which motion prevailed.

SECOND READING OF SENATE BILL

SB 2346: A BILL for an Act to create and enact a new section to chapter 54-35.2 of the North Dakota Century Code, relating to administration and provision of planning grants to county and city governments for plans that are intended to improve the efficiency of local government; 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 47 YEAS, 0 NAYS, 0 EXCUSED, 6 ABSENT AND NOT VOTING.

YEAS: Bowman; David; Dotzenrod; Evanson; Freborg; Goetz; Graba; Hanson, E.; Hanson, O.; Heigaard; Heinrich; Holmberg; Ingstad; Jerome; Keller; Kelly; Kelsh; Krauter; Krebsbach; Lindaas; Lindgren; Lips; Marks; Mathern; Maxson; Moore; Mushik; Mutch; Nalewaja; Nelson; Nething; O'Connell; Peterson; Redlin; Robinson; Satrom; Schoenwald; Solberg; Stenehjelm; Streibel; Tallackson; Tennefos; Thane; Tomac; Traynor; Wogsland; Yockim

ABSENT AND NOT VOTING: DeKrey; Kinnoin; Langley; Meyer; Naaden; Vosper

SB 2346 passed and the title was agreed to.

MOTION

SEN. HEINRICH MOVED that SB 2034 be moved down one Senate bill on the calendar, which motion prevailed.

CONSIDERATION OF MESSAGE FROM THE HOUSE

SEN. MEYER MOVED that the Senate do not concur in the House amendments to Engrossed SB 2039 as printed on SJ pages 1076-1077 and that a conference committee be appointed to meet with a like committee from the House, which motion prevailed.

APPOINTMENT OF CONFERENCE COMMITTEE

THE PRESIDENT APPOINTED as a new Conference Committee on SB 2039: Sens. Krauter, Tomac, Traynor.

CONSIDERATION OF MESSAGE FROM THE HOUSE

SEN. HEINRICH MOVED that the Senate do concur in the House amendments to Reengrossed SB 2034 as printed on SJ pages 1411-1412, which motion lost on a verification vote.

REPORT OF CONFERENCE COMMITTEE

SEN. MEYER MOVED that the conference committee report on Engrossed SB 2036 as printed on SJ pages 1383-1384 be adopted, which motion prevailed.

SECOND READING OF SENATE BILL

SB 2036: A BILL for an Act to create and enact a new section to chapter 20.1-02 and three new subsections to section 20.1-03-12 of the North Dakota Century Code, relating to fees for licenses and permits to harvest clams; and to amend and reenact subsection 42 of section 20.1-01-02, sections 20.1-01-03 and 20.1-01-14, subsection 4 of section 20.1-02-04, subsections 1 and 2 of section 20.1-02-15, subsections 1 and 2 of section 20.1-08-02, subsection 1 of section 20.1-08-04, and section 20.1-10-02 of the North Dakota Century Code, relating to the definition of, ownership of, duties of the game and fish commissioner concerning, and proclamations of the governor relating to, wildlife.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 47 YEAS, 0 NAYS, 0 EXCUSED, 6 ABSENT AND NOT VOTING.

YEAS: Bowman; David; Dotzenrod; Evanson; Freborg; Goetz; Graba; Hanson, E.; Hanson, O.; Heigaard; Heinrich; Holmberg; Ingstad; Jerome; Keller; Kelly; Kelsh; Krauter; Krebsbach; Lindaas; Lindgren; Lips; Marks; Mathern; Maxson; Moore; Mushik; Mutch; Nalewaja; Nelson; Nething; O'Connell; Peterson; Redlin; Robinson; Satrom; Schoenwald; Solberg; Stenehjem; Streibel; Tallackson; Tennefos; Thane; Tomac; Traynor; Wogsland; Yockim

ABSENT AND NOT VOTING: DeKrey; Kinnoin; Langley; Meyer; Naaden; Vosper

SB 2036 passed and the title was agreed to.

MOTIONS

SEN. WOGSLAND MOVED that SB 2090, which is on the Seventh order, be laid over one legislative day, which motion prevailed.

SEN. HEIGAARD MOVED that SB 2149, which is on the Seventh order, be laid over one legislative day, which motion prevailed.

REPORT OF CONFERENCE COMMITTEE

SEN. MEYER MOVED that the conference committee report on Engrossed SB 2335 be adopted as printed on SJ page 1385, which motion prevailed.

SECOND READING OF SENATE BILL

SB 2335: A BILL for an Act to amend and reenact subsection 1 of section 27-08.1-01 and section 27-08.1-03 of the North Dakota Century Code, relating to the jurisdictional limit and amount of counterclaims in small claims courts.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 47 YEAS, 0 NAYS, 0 EXCUSED, 6 ABSENT AND NOT VOTING.

YEAS: Bowman; David; Dotzenrod; Evanson; Freborg; Goetz; Graba; Hanson, E.; Hanson, O.; Heigaard; Heinrich; Holmberg; Ingstad; Jerome; Keller; Kelly; Kelsh; Krauter; Krebsbach; Lindaas; Lindgren; Lips; Marks; Mathern; Maxson; Moore; Mushik; Mutch; Nalewaja; Nelson; Nething; O'Connell; Peterson; Redlin; Robinson; Satrom; Schoenwald; Solberg; Stenehjem; Streibel; Tallackson; Tennefos; Thane; Tomac; Traynor; Wogsland; Yockim

ABSENT AND NOT VOTING: DeKrey; Kinnoin; Langley; Meyer; Naaden; Vosper

SB 2335 passed and the title was agreed to.

MOTION

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

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

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

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

SB 2039: Sens. Krauter; Tomac; Traynor

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

MR. SPEAKER: The Senate does not concur in the House amendments to SB 2025, and the President has appointed as a conference committee to act with a like committee from the House on:

SB 2025: Sens. Kelsh; Langley; Vosper

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

MR. SPEAKER: The Senate has concurred in the House amendments to SB 2346 and subsequently passed the same.

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

MR. PRESIDENT: The House does not concur in the Senate amendments to HB 1002, HB 1018, and HB 1019, and the Speaker has appointed as a conference committee to act with a like committee from the Senate on:

HB 1002: Reps. Wentz; Gerntholz; Laughlin
HB 1018: Reps. Dalrymple; Berg, R.; Wilkie
HB 1019: Reps. Wald; Payne; Brokaw

MOTIONS

SEN. GRABA MOVED that the Senate reconsider its action whereby the amendments to SB 2034 lost, which motion prevailed.

SEN. HEIGAARO MOVED that SB 2034 be laid over one legislative day, which motion prevailed.

REPORT OF CONFERENCE COMMITTEE

SEN. MEYER MOVED that the conference committee report on Reengrossed SB 2385 as printed on SJ page 1338 be adopted, which motion prevailed.

SECOND READING OF SENATE BILL

SB 2385: A BILL for an Act to amend and reenact sections 27-09.1-03, 27-09.1-05, 27-09.1-07, subsection 1 of section 27-09.1-08, sections 27-09.1-09, 27-09.1-12, 27-09.1-13, and subsection 1 of section 27-09.1-17 of the North Dakota Century Code, relating to juries; and to repeal sections 27-09.1-04 and 27-09.1-06 of the North Dakota Century Code, relating to uniform jury selection and service.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 47 YEAS, 0 NAYS, 0 EXCUSED, 6 ABSENT AND NOT VOTING.

YEAS: Bowman; David; Dotzenrod; Evanson; Freborg; Goetz; Graba; Hanson, E.; Hanson, O.; Heigaard; Heinrich; Holmberg; Ingstad; Jerome; Keller; Kelly; Kelsh; Krauter; Krebsbach; Lindaas; Lindgren; Lips; Marks; Mathern; Maxson; Moore; Mushik; Mutch; Nalewaja; Nelson; Nething; O'Connell; Peterson; Redlin; Robinson; Satrom; Schoenwald; Solberg; Stenehjem; Streibel; Tallackson; Tennefos; Thane; Tomac; Traynor; Wogsland; Yockim

ABSENT AND NOT VOTING: DeKrey; Kinnoin; Langley; Meyer; Naaden; Vosper

SB 2385 passed and the title was agreed to.

REPORT OF CONFERENCE COMMITTEE

SEN. LINDAAS MOVED that the conference committee report on Reengrossed SB 2008 as printed on SJ pages 1101-1102 be adopted, which motion prevailed.

SECOND READING OF SENATE BILL

SB 2008: A BILL for an Act making an appropriation for defraying the expenses of the board of animal health.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 47 YEAS, 0 NAYS, 0 EXCUSED, 6 ABSENT AND NOT VOTING.

YEAS: Bowman; David; Dotzenrod; Evanson; Freborg; Goetz; Graba; Hanson, E.; Hanson, O.; Heigaard; Heinrich; Holmberg; Ingstad; Jerome; Keller; Kelly; Kelsh; Krauter; Krebsbach; Lindaas; Lindgren; Lips; Marks; Mathern; Maxson; Moore; Mushik; Mutch; Nalewaja; Nelson; Nething; O'Connell; Peterson; Redlin; Robinson; Satrom; Schoenwald; Solberg; Stenehjem; Streibel; Tallackson; Tennefos; Thane; Tomac; Traynor; Wogsland; Yockim

ABSENT AND NOT VOTING: DeKrey; Kinnoin; Langley; Meyer; Naaden; Vosper

SB 2008 passed and the title was agreed to.

REPORT OF CONFERENCE COMMITTEE

SEN. ROBINSON MOVED that the conference committee report on Engrossed SB 2010 as printed on SJ page 1155 be adopted, which motion prevailed.

SECOND READING OF SENATE BILL

SB 2010: A BILL for an Act making an appropriation for insurance premium tax payments distribution to fire departments.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 47 YEAS, 0 NAYS, 0 EXCUSED, 6 ABSENT AND NOT VOTING.

YEAS: Bowman; David; Dotzenrod; Evanson; Freborg; Goetz; Graba; Hanson, E.; Hanson, O.; Heigaard; Heinrich; Holmberg; Ingstad; Jerome; Keller; Kelly; Kelsh; Krauter; Krebsbach; Lindaas; Lindgren; Lips; Marks; Mathern; Maxson; Moore; Mushik; Mutch; Nalewaja; Nelson; Nething; O'Connell; Peterson; Redlin; Robinson; Satrom; Schoenwald; Solberg; Stenehjem; Streibel; Tallackson; Tennefos; Thane; Tomac; Traynor; Wogsland; Yockim

ABSENT AND NOT VOTING: DeKrey; Kinnoin; Langley; Meyer; Naaden; Vosper

SB 2010 passed and the title was agreed to.

REPORT OF CONFERENCE COMMITTEE

SEN. MEYER MOVED that the conference committee report on Engrossed SB 2041 as printed on SJ page 926 be adopted, which motion prevailed.

SECOND READING OF SENATE BILL

SB 2041: A BILL for an Act to amend and reenact section 20.1-03-01.2 of the North Dakota Century Code, relating to hunter safety instruction requirements for obtaining hunting 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 10 YEAS, 37 NAYS, 0 EXCUSED, 6 ABSENT AND NOT VOTING.

YEAS: Graba; Krebsbach; Lindgren; Marks; Mathern; Moore; Nelson; Nething; Peterson; Traynor

NAYS: Bowman; David; Dotzenrod; Evanson; Freborg; Goetz; Hanson, E.; Hanson, O.; Heigaard; Heinrich; Holmberg; Ingstad; Jerome; Keller; Kelly; Kelsh; Krauter; Lindaas; Lips; Maxson; Mushik; Mutch; Nalewaja;

O'Connell; Redlin; Robinson; Satrom; Schoenwald; Solberg; Stenehjem; Streibel; Tallackson; Tennefos; Thane; Tomac; Wogsland; Yockim

ABSENT AND NOT VOTING: DeKrey; Kinnoin; Langley; Meyer; Naaden; Vosper

SB 2041 lost.

MOTION

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

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

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

MR. PRESIDENT: The Speaker has signed and your signature is respectfully requested on: HB 1001, HB 1003, HB 1015, HB 1116, HB 1139, HB 1260, HB 1291, HB 1578, HB 1599.

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

MR. PRESIDENT: The Speaker has signed: SB 2012, SB 2024, SB 2033, SB 2038, SB 2040, SB 2057, SB 2076, SB 2096, SB 2106, SB 2108, SB 2134, SB 2158, SB 2173, SB 2180, SB 2181, SB 2203, SB 2204, SB 2210, SB 2275, SB 2281, SB 2327, SB 2329, SB 2340, SB 2351, SB 2352, SB 2354, SB 2372, SB 2389, SB 2397, SB 2431, SB 2447, SB 2588, SB 2589, SB 2590, SB 2593, SCR 4057, SCR 4067.

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

MR. PRESIDENT: The Speaker has signed: SB 2028, SB 2035, SB 2063, SB 2078, SB 2100, SB 2188, SB 2193, SB 2212, SB 2213, SB 2214, SB 2215, SB 2219, SB 2227, SB 2237, SB 2262, SB 2266, SB 2270, SB 2274, SB 2279, SB 2333, SB 2378, SB 2416, SB 2472, SB 2492, SB 2493, SB 2494, SB 2498, SB 2506, SB 2508, SB 2526, SB 2520, SB 2530, SB 2539, SB 2556, SB 2559, SCR 4011.

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 2039: Reps. Timm; Carlisle; Huether

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

MR. SPEAKER: The President has appointed Senator Holmberg and Senator E. Hanson to replace Senator Graba and Senator Holmberg on the conference committee for SB 2023.

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

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

Page 1338, line 7, replace "Reps. Pyle, Grosz, Wardner" with "Reps. Wardner, Grosz, Pyle"

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

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 1002, which motion prevailed.

THE PRESIDENT APPOINTED as a Conference Committee on HB 1002: Sens. Kelly, Satrom, Ingstad.

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 1018, which motion prevailed.

THE PRESIDENT APPOINTED as a Conference Committee on HB 1018: Sens. Kelly, Mushik, Thane.

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 1019, which motion prevailed.

THE PRESIDENT APPOINTED as a Conference Committee on HB 1019: Sens. Robinson, Yockim, Lips.

SEN. DOTZENROD MOVED that the President appoint a committee of three to act with a like committee from the House as a Conference Committee on HB 1117, which motion prevailed.

THE PRESIDENT APPOINTED as a Conference Committee on HB 1117: Sens. Dotzenrod, Tomac, Vosper.

CONSIDERATION OF MESSAGE FROM THE HOUSE

SEN. TALLACKSON MOVED that the Senate do not concur in the House amendments to Reengrossed SB 2016 as printed on SJ pages 1409-1411 and that a conference committee be appointed to meet with a like committee from the House, which motion prevailed.

APPOINTMENT OF CONFERENCE COMMITTEE

THE PRESIDENT APPOINTED as a Conference Committee on SB 2016: Sens. Yockim, Satrom, Ingstad.

CONSIDERATION OF MESSAGE FROM THE HOUSE

SEN. TALLACKSON MOVED that the Senate do not concur in the House amendments to Engrossed SB 2572 as printed on SJ pages 1358-1359 and that a conference committee be appointed to meet with a like committee from the House, which motion prevailed.

APPOINTMENT OF CONFERENCE COMMITTEE

THE PRESIDENT APPOINTED as a Conference Committee on SB 2572: Sens. Heinrich, Kelsh, Lips.

MOTION

SEN. WOGSLAND MOVED that HB 1006 be placed at the top of the Sixth order, which motion prevailed.

CONSIDERATION OF AMENDMENTS

HB 1006: SEN. TALLACKSON (Committee on Appropriations) MOVED that the amendments on SJ pages 1432-1433 be adopted with DO PASS, which motion prevailed.

SECOND READING OF HOUSE BILL

HB 1006: A BILL for an Act making an appropriation for defraying the expenses of the department of health and consolidated laboratories of the state of North Dakota; to provide an appropriation from the solid waste management fund; and to provide for an appropriation from the abandoned motor vehicle disposal fund.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 47 YEAS, 0 NAYS, 0 EXCUSED, 6 ABSENT AND NOT VOTING.

YEAS: Bowman; David; Dotzenrod; Evanson; Freborg; Goetz; Graba; Hanson, E.; Hanson, O.; Heigaard; Heinrich; Holmberg; Ingstad; Jerome; Keller; Kelly; Krauter; Krebsbach; Lindaas; Lindgren; Lips; Marks; Mathern; Maxson; Moore; Mushik; Mutch; Naaden; Nalewaja; Nelson; Nething; O'Connell; Peterson; Redlin; Robinson; Satrom; Schoenwald; Solberg;

Stenehjelm; Streibel; Tallackson; Tennefos; Thane; Tomac; Traynor;
Wogsland; Yockim

ABSENT AND NOT VOTING: DeKrey; Kelsh; Kinnoin; Langley; Meyer; Vosper

HB 1006 passed and the title was agreed to.

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

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

HB 1002: Sens. Kelly; Satrom; Ingstad
HB 1018: Sens. Kelly; Mushik; Thane
HB 1019: Sens. Robinson; Yockim; Lips
HB 1117: Sens. Dotzenrod; Tomac; Vosper

MOTION

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

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

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

MR. SPEAKER: The Senate does not concur in the House amendments to SB 2016 and SB 2572, and the President has appointed as a conference committee to act with a like committee from the House on:

SB 2016: Sens. Yockim; Satrom; Ingstad
SB 2572: Sens. Heinrich; Kelsh; Lips

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

MR. SPEAKER: The President has signed: HB 1001, HB 1003, HB 1015, HB 1116, HB 1139, HB 1260, HB 1291, HB 1578, HB 1599.

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

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

Page 1418, lines 10 and 11, replace "Sens. Tomac, Moore, Dotzenrod and Reps. Nichols, Wardner, Belter" with "Sens. Dotzenrod, Tomac, Moore and Reps. Wardner, Belter, Nichols"

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

CONSIDERATION OF AMENDMENTS

HB 1079: SEN. MAXSON (Committee on Judiciary) MOVED that the amendments on SJ page 1380 be adopted with DO PASS, which motion prevailed.

MOTION

SEN. WOGSLAND MOVED that HB 1079, which is on the Fourteenth order, be rereferred to the Committee on Appropriations, which motion prevailed. Pursuant to Sen. Wogsland's motion, HB 1079 was rereferred.

CONSIDERATION OF AMENDMENTS

HB 1048: SEN. DOTZENROD (Committee on Finance and Taxation) MOVED that the amendments on SJ pages 1433-1434 be adopted with DO PASS, which motion lost.

MOTION

SEN. HEIGAARD MOVED that HB 1048 be amended as follows, which motion lost on a verification vote.

Page 1, line 3, remove the second "and"

Page 1, line 6, after "equipment" insert "; and to provide an effective date"

Page 3, after line 18, insert:

"SECTION 3. EFFECTIVE DATE. This Act is effective for taxable events occurring after June 30, 1993."

Renumber accordingly

SECOND READING OF HOUSE BILL

HB 1048: A BILL for an Act to create and enact two new sections to chapter 57-39.2 of the North Dakota Century Code, relating to a sales and use tax exemption for new manufacturing machinery and equipment purchases and for purchases of property used exclusively for agricultural purposes; to amend and reenact subsection 2 of section 57-39.2-02.1 and subsection 2 of section 57-40.2-02.1 of the North Dakota Century Code, relating to sales and use taxes on sales of certain property used for agricultural purposes; to repeal sections 57-39.2-03.5 and 57-40.2-03.4 of the North Dakota Century Code, relating to reduced sales and use tax rates for purchases of new manufacturing machinery and equipment; and to provide an effective date.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 41 YEAS, 11 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Bowman; David; DeKrey; Evanson; Freborg; Goetz; Graba; Hanson, O.; Holmberg; Ingstad; Keller; Kelly; Kinnoin; Krauter; Krebsbach; Lindgren; Lips; Marks; Maxson; Meyer; Moore; Mushik; Mutch; Naaden; Nalewaja; Nelson; Nething; O'Connell; Peterson; Redlin; Robinson; Satrom; Solberg; Stenehjem; Streibel; Tallackson; Tennefos; Thane; Traynor; Vosper; Yockim

NAYS: Dotzenrod; Hanson, E.; Heigaard; Heinrich; Jerome; Kelsh; Langley; Lindaas; Mathern; Schoenwald; Wogsland

ABSENT AND NOT VOTING: Tomac

HB 1048 passed and the title was agreed to.

CONSIDERATION OF MESSAGE FROM THE HOUSE

SEN. TALLACKSON MOVED that the Senate do concur in the House amendments to Reengrossed SB 2169 as printed on SJ page 1412, which motion prevailed.

SECOND READING OF SENATE BILL

SB 2169: A BILL for an Act to amend and reenact section 15-40.1-16 of the North Dakota Century Code, relating to schoolbus transportation aid payments.

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, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Bowman; David; DeKrey; Dotzenrod; Evanson; Freborg; Goetz; Graba; Hanson, E.; Hanson, O.; Heigaard; Heinrich; Holmberg; Ingstad; Jerome; Keller; Kelly; Kelsh; Kinnoin; Krauter; Krebsbach; Langley; Lindaas; Lindgren; Lips; Marks; Mathern; Maxson; Meyer; Moore; Mushik; Mutch; Naaden; Nalewaja; Nelson; Nething; O'Connell; Peterson; Redlin; Robinson; Satrom; Schoenwald; Solberg; Stenehjem; Streibel; Tallackson; Tennefos; Thane; Traynor; Vosper; Wogsland; Yockim

ABSENT AND NOT VOTING: Tomac

SB 2169 passed and the title was agreed to.

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 2017: Reps. Wald; Myrdal; Berg, G.
- SB 2020: Reps. Rydell; Berg, R.; Starke
- SB 2025: Reps. Rennerfeldt; Bateman; Anderson, B.

MOTIONS

SEN. WOGSLAND MOVED that the absent member be excused, which motion prevailed.

SEN. WOGSLAND MOVED that the Senate be on the Fifth order of business, and at the conclusion of the Fifth order, the Senate be on the Seventh order of business, and at the conclusion of the Seventh order, the Senate stand adjourned until 8:00 a.m., Thursday, April 4, 1991, which motion prevailed.

REPORT OF STANDING COMMITTEE

HCR 3070, as engrossed: Committee on Appropriations (Sen. Tallackson, Chairman) recommends DO PASS (11 YEAS, 0 NAYS, 3 ABSENT AND NOT VOTING). HCR 3070 was placed on the Fourteenth order on the calendar.

REPORTS OF CONFERENCE COMMITTEES

SB 2205, as engrossed: Your conference committee (Sens. Heinrich, Evanson, Jerome and Reps. Clayburgh, Freier, Mutzenberger) recommends that the HOUSE RECEDE from the House amendments on SJ page 1103, amend as follows, and then place on the Seventh order:

That the House recede from its amendments as printed on page 1141 of the House Journal and page 1103 of the Senate Journal, and that Engrossed Senate Bill No. 2205 be amended as follows:

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

Page 2, line 2, replace "one" with "three", remove "at least one-fourth degree", and replace "blood" with "descent, must be enrolled members of a tribe, and must be current voting residents of the state of North Dakota"

Page 2, line 3, remove the overstrike over "and"

Page 2, line 4, remove ", and the Sisseton-Wahpeton"

Renumber accordingly

SCR 4058, as engrossed: Your conference committee (Sens. Jerome, Krebsbach, O. Hanson and Reps. Clayburgh, Freier, Mutzenberger) recommends that the HOUSE RECEDE from the House amendments on SJ page 1318, amend as follows, and then place on the Seventh order:

That the House recede from its amendments as printed on pages 1438 and 1439 of the House Journal, and that Engrossed Senate Concurrent Resolution No. 4058 be amended as follows:

Page 1, line 1, after "A concurrent resolution" replace the remainder of the resolution with "urging Congress to enact legislation giving Indian tribes criminal misdemeanor jurisdiction over all Indians on reservations and to review the Indian Civil Rights Act to ensure that the constitutional rights of all Indians are protected."

WHEREAS, the Supreme Court of the United States, in Duro v. Reina, 110 S.Ct. 2053 (1990), has reversed 200 years of the exercise by Indian tribes of criminal misdemeanor jurisdiction over all Indians residing on their reservations by ruling that each tribe retains such powers only over Indians enrolled in their respective tribe; and

WHEREAS, this ruling displays a lack of understanding of the reality, history, and demographics of Indian country including the fact that there are tens of thousands of Indians living on reservations who are not enrolled at that given reservation; and

WHEREAS, a nonenrolled Indian may have lived on a reservation for all of his or her life, have intermarried with a member who is enrolled, have had children with the enrolled member, and may own property on the reservation; and

WHEREAS, such a nonenrolled Indian is eligible for federal programs for which any Indian would be eligible; and

WHEREAS, for purposes of law enforcement, tribes have never distinguished between enrolled and nonenrolled Indians; and

WHEREAS, the state of North Dakota does not have the funding available to hire the extra police, investigators, prosecutors, and judges or to build the jails that would be necessary to prosecute misdemeanor crimes by Indians within the boundaries of Indian reservations and may not be able to successfully assert jurisdiction even if such funds were available; and

WHEREAS, the nontaxable status of reservation trust lands combined with the relative poverty of most Indian people do not offer any opportunity to raise the additional revenue that would be required to take over such a large job if jurisdiction were established; and

WHEREAS, the Court indicated that it is the responsibility of the Congress to address any void in jurisdiction that may result from this ruling; and

WHEREAS, the Indian Civil Rights Act should be reviewed to ensure that its goals will be met;

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

That the North Dakota Legislative Assembly commends the Congress of the United States for passing Section 8077 (b) and (c) of Public Law No. 101-511 (signed by the President on November 5, 1990), which temporarily affirmed that tribes do retain criminal misdemeanor jurisdiction over all Indians in Indian country and does hereby urge the Congress of the United States to make this provision of Public Law No. 101-511 permanent law; and

BE IT FURTHER RESOLVED, that the North Dakota Legislative Assembly joins the tribes of North Dakota by formally requesting that the North Dakota Congressional Delegation and the United States Senate Select Committee on Indian Affairs support federal legislation confirming that tribal governments have the authority to maintain criminal jurisdiction over nonenrolled and nonmember Indians who commit criminal acts within the external boundaries of reservations and upon lands of the tribes; and

BE IT FURTHER RESOLVED, that the North Dakota Congressional Delegation support review of the Indian Civil Rights Act to ensure that its goals are accomplished; and

BE IT FURTHER RESOLVED, that the Secretary of State send copies of this resolution to each member of the North Dakota Congressional

Delegation, the United States Senate Select Committee on Indian Affairs, and the respective tribes of North Dakota."

Renumber accordingly

HB 1051, as engrossed: Your conference committee (Sens. Meyer, Traynor, Marks and Reps. Byerly, Bateman, Erickson) recommends that the SENATE RECEDE from the Senate amendments on SJ page 892 and then place it on the Seventh order.

HB 1053, as engrossed: Your conference committee (Sens. Meyer, Traynor, Marks and Reps. Clayburgh, Kelsch, Snyder) recommends that the HOUSE ACCEDE to the Senate amendments on SJ page 901 and then place it on the Seventh order.

HB 1073: Your conference committee (Sens. E. Hanson, Lindgren, Evanson and Reps. Price, Delzer, Boucher) recommends that the SENATE RECEDE from the Senate amendments on SJ page 453, amend as follows, and then place on the Seventh order:

That the Senate recede from its amendments as printed on page 453 of the Senate Journal and pages 889-890 of the House Journal and that House Bill No. 1073 be amended as follows:

Page 1, line 10, remove the overstrike over "~~of the~~"

Page 1, remove the overstrike over line 11

Page 1, line 12, remove the overstrike over "~~the parties resides~~", after "~~resides~~" insert "or is temporarily domiciled", and remove the overstrike over "~~; or if such county is unorganized, or disorganized; of~~"

Page 1, line 13, remove the overstrike over "~~the county to which it is attached for judicial purposes, or~~"

Page 1, line 14, remove the overstrike over "by", after the first "the" insert "a", and remove the overstrike over "~~county judge of the~~"

Page 1, remove the overstrike over lines 15 through 17

Page 1, line 18, remove the overstrike over "~~Dakota shall be deemed to reside in the county wherein~~", after "he" insert "that person", and remove the overstrike over "~~is stationed~~"

Renumber accordingly

HB 1132: Your conference committee (Sens. O'Connell, Mathern, Streibel and Reps. Carlisle, Boehm, Boucher) recommends that the HOUSE ACCEDE to the Senate amendments on SJ page 1070 and then place it on the Seventh order.

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

MARION HOUN, Secretary