

JOURNAL OF THE SENATE

Fifty-second Legislative Assembly

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Bismarck, April 9, 1991

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

The prayer was offered by Deacon Ed Johnson, Sr., United Tribes Catholic Chapel, Bismarck.

The roll was called and all members were present except Senators O. Hanson, Ingstad, Keller, Langley, Naaden, and Tomac.

A quorum was declared by the President.

MOTION

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 SENATE from the HOUSE (Roy Gilbreath, Chief Clerk)

MR. PRESIDENT: The House has not adopted the conference committee report on HB 1013 and HB 1611.

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

MR. PRESIDENT: The House has adopted the conference committee report on HB 1002, HB 1014, HB 1020, HB 1167, HB 1378, and HB 1534 and subsequently passed the same.

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

MR. SPEAKER: The Senate has concurred in the House amendments to SB 2006, SB 2070, and SB 2541 and subsequently passed the same.

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 2234: Sens. Marks; Meyer; Stenehjem

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

MR. SPEAKER: The Senate has dissolved its Conference Committee on HB 1439 and has appointed as a new conference committee to act with a like committee from the House on:

HB 1439: Sens. Schoenwald; Meyer; David

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

MR. SPEAKER: The Senate has amended and subsequently passed: HB 1079.

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

MR. SPEAKER: The Senate has adopted the conference committee report on SB 2039, SB 2507, and SB 2595 and subsequently passed the same.

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

MR. PRESIDENT: The Speaker has signed: SB 2069, SB 2169, SB 2346, SB 2384, SB 2509.

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

MR. PRESIDENT: The House has adopted the conference committee report on SB 2009, SB 2015, SB 2025, SB 2258, and SB 2451 and subsequently passed the same.

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

MR. PRESIDENT: The House has amended and subsequently failed to pass: SB 2339.

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 1051, HB 1061, HB 1135, HB 1138, HB 1145, HB 1152, HB 1262, HB 1300, HB 1313, HB 1333, HB 1343, HB 1381, HB 1424, HB 1441, HB 1450, HB 1483, HB 1507, HB 1509, HB 1556, HB 1569, HB 1571, HCR 3038.

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

MR. PRESIDENT: The Speaker has signed: SB 2007, SB 2008, SB 2023, SB 2067, SB 2083, SB 2118, SB 2211, SB 2249, SB 2259, SB 2272, SB 2422, SB 2425.

REPORT OF CONFERENCE COMMITTEE

SEN. TALLACKSON MOVED that the conference committee report on Engrossed SB 2016 as printed on SJ page 1599 be adopted, which motion lost on a verification vote.

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.

DELIVERY OF ENROLLED BILLS AND RESOLUTIONS

The following bills were delivered to the Governor for his approval at the hour of 10:02 a.m., April 9, 1991: SB 2007, SB 2008, SB 2023, SB 2067, SB 2083, SB 2118, SB 2211, SB 2249, SB 2259, SB 2272, SB 2422, SB 2425.

DELIVERY OF ENROLLED BILLS AND RESOLUTIONS

The following bills were delivered to the Governor for his approval at the hour of 10:04 a.m., April 9, 1991: SB 2069, SB 2169, SB 2346, SB 2384, SB 2509.

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

MR. SPEAKER: The Senate has not adopted the conference committee report on SB 2016.

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 2016: Sens. Yockim; Satrom; Ingstad

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

MR. SPEAKER: The President has signed: HB 1051, HB 1061, HB 1135, HB 1138, HB 1145, HB 1152, HB 1262, HB 1300, HB 1313, HB 1333, HB 1343, HB 1381, HB 1424, HB 1441, HB 1450, HB 1483, HB 1507, HB 1509, HB 1556, HB 1569, HB 1571, HCR 3038.

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

MR. PRESIDENT: The House has adopted the conference committee report on HB 1013 and subsequently passed the same.

CONSIDERATION OF MESSAGE FROM THE HOUSE

SEN. TALLACKSON MOVED that the Senate do not concur in the House amendments to Engrossed SB 2016 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 2016: Sens. Yockim, Satrom, Ingstad.

CONSIDERATION OF MESSAGE FROM THE HOUSE

SEN. SATROM MOVED that the Senate do not concur in the House amendments to Reengrossed SCR 4073 as printed on SJ page 1506 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 SCR 4073: Sens. Satrom, Kelsh, Naaden.

REPORT OF CONFERENCE COMMITTEE

SEN. TALLACKSON MOVED that the conference committee report on Engrossed SB 2005 as printed on SJ page 1466 be adopted, which motion prevailed.

REPORT OF CONFERENCE COMMITTEE

HB 1002, as engrossed: Your conference committee (Sens. Kelly, Satrom, Ingstad and Reps. Wentz, Gerntholz, Laughlin) recommends that the SENATE RECEDE from the Senate amendments on SJ pages 1375-1376, 1392-1397, amend as follows, and then place on the Seventh order:

That the Senate recede from its amendments as printed on pages 1375 and 1376 and 1392-1397 of the Senate Journal and pages 1587-1593 of the House Journal, and that Engrossed House Bill No. 1002 be amended as follows:

Page 1, line 2, remove the first "and"

Page 1, line 4, after "courts" insert "; and to provide for a legislative council study of the feasibility and desirability of including all county judges in the public employees retirement system"

Page 1, line 22, replace "193,828" with "213,828"

Page 2, line 1, replace "5,418,758" with "5,398,758"

Page 2, line 6, replace "3,999,324" with "3,959,324"

Page 2, line 9, replace "17,599,800" with "17,559,800"

Page 2, line 11, replace "17,497,858" with "17,457,858"

Page 2, line 20, replace "107,392" with "72,000"

Page 2, line 21, replace "241,080" with "276,472"

Page 2, line 22, replace "23,157,696" with "23,133,088"

Page 2, line 23, replace "403.162" with "387,770"

Page 2, line 24, replace "23,560,858" with "23,520,858"

Page 4, after line 7, insert:

"SECTION 6. LEGISLATIVE COUNCIL STUDY OF INCLUDING ALL COUNTY JUDGES IN THE PUBLIC EMPLOYEES RETIREMENT SYSTEM. During the 1991-92 interim the legislative council may study the feasibility and desirability of including all county judges in the public employees retirement system. The legislative council may report its findings and recommendations, together with any legislation necessary to implement the recommendations, to the fifty-third legislative assembly."

ReNUMBER accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

DEPARTMENT 180 - SUPREME COURT

This amendment decreases the general fund appropriation by \$20,000 and increases estimated income by \$20,000 to reflect the amount of anticipated income.

DEPARTMENT 183 - JUDICIAL CONDUCT COMMISSION

This amendment increases the general fund appropriation by \$35,392 to fund the salary of the secretary position provided in the executive budget. Estimated income is reduced by the same amount since the moneys are not available from the State Bar Association as included in the House version.

A section is added to provide a Legislative Council study to consider including all county judges in the Public Employees Retirement System.

DEPARTMENT 185 - DISTRICT COURTS

The operating expenses line item is reduced by \$40,000 from the general fund to reduce indigent defense moneys not necessary in the budget request for the Northwest District Court.

REPORT OF CONFERENCE COMMITTEE

SEN. TALLACKSON MOVED that the conference committee report on Engrossed HB 1002 be adopted, which motion prevailed.

SECOND READING OF HOUSE BILL

HB 1002: A BILL for an Act to provide an appropriation for defraying the expenses of the judicial branch; to amend and reenact sections 27-02-02 and 27-05-03 of the North Dakota Century Code, relating to the salaries of the judges of the supreme and district courts; and to provide for a legislative council study of the feasibility and desirability of including all county judges in the public employees retirement system.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 50 YEAS, 2 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; Lindaas; Lindgren; Lips; Marks; Mathern; Maxson; Meyer; Mushik; Mutch; Naaden; Nalewaja; Nelson; Nething; O'Connell; Peterson; Redlin; Robinson; Satrom; Schoenwald; Solberg; Stenehjem; Streibel; Tallackson; Thane; Tomac; Traynor; Vosper; Wogsland; Yockim

NAYS: Moore; Tennefos

ABSENT AND NOT VOTING: Langley

HB 1002 passed and the title was agreed to.

REPORT OF CONFERENCE COMMITTEE

HB 1014, as reengrossed: Your conference committee (Sens. Mushik, Kelly, Naaden and Reps. Schmidt, Howard, Meyer) recommends that the SENATE RECEDE from the Senate amendments on SJ pages 1077-1078, amend as follows, and then place on the Seventh order:

That the Senate recede from its amendments as printed on pages 1077 and 1078 of the Senate Journal and page 1360 of the House Journal, and that Engrossed House Bill No. 1014 be amended as follows:

Page 1, line 11, replace "264,332" with "328,332"

Page 1, line 15, replace "1,254,516" with "1,299,516"

Page 1, line 16, replace "7,516" with "8,516"

Page 1, line 17, replace "1,690,872" with "1,800,872"

Page 1, line 18, replace "1,151,609" with "1,223,609"

Page 1, line 19, replace "539,263" with "577,263"

ReNUMBER accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

DEPARTMENT 709 - COUNCIL ON THE ARTS

The salaries and wages line item is increased by \$64,000, \$32,000 from the general fund and \$32,000 from special funds to provide funding for one FTE folklorist position. The executive budget and the House version did not include funding for the position, and the Senate version provided \$64,000 from the general fund for the position.

Funding for operating expenses of \$5,000 from the general fund is not provided in this amendment which was removed by the House and restored by the Senate.

The grants line item is increased by \$45,000, \$5,000 of which is from the general fund which the House removed and the Senate restored, and \$40,000 of federal funds related to the folklorist position.

The transfer to the cultural endowment fund is increased by \$1,000 from the general fund, from \$7,516 to \$8,516, the executive budget and the Senate version provided funding for a \$9,516 transfer and the House version provided funding for a \$7,516 transfer.

REPORT OF CONFERENCE COMMITTEE

SEN. TALLACKSON MOVED that the conference committee report on Reengrossed HB 1014 be adopted, which motion prevailed.

SECOND READING OF HOUSE BILL

HB 1014: A BILL for an Act making an appropriation for defraying the expenses of the council on the arts; and providing for an appropriation of funds from the cultural endowment 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 51 YEAS, 0 NAYS, 0 EXCUSED, 2 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; Lindaas; Lindgren; Lips; Marks; Mathern; Maxson; Moore; Mushik; Mutch; Naaden; Nalewaja; Nelson; Nething; O'Connell; Peterson; Redlin; Robinson; Satrom; Schoenwald; Solberg; Stenhjem; Streibel; Tallackson; Tennefos; Thane; Tomac; Traynor; Vosper; Wogsland; Yockim

ABSENT AND NOT VOTING: Langley; Meyer

HB 1014 passed and the title was agreed to.

REPORT OF CONFERENCE COMMITTEE

HB 1020, as engrossed: Your conference committee (Sens. Redlin, Lindaas, Ingstad and Reprs. Gerntholz, Howard, Meyer) recommends that the SENATE RECEDE from the Senate amendments on SJ page 1247, amend as follows, and then place on the Seventh order:

That the Senate recede from its amendments as printed on page 1247 of the Senate Journal and pages 1445 and 1446 of the House Journal, and that Engrossed House Bill No. 1020 be amended as follows:

Page 1, line 10, replace "55,000" with "75,000"

Page 1, line 11, replace "363,772" with "383,772"

Page 1, line 12, replace "418,772" with "458,772"

ReNUMBER accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

DEPARTMENT 704 - INTERNATIONAL PEACE GARDEN

The grants line item is increased by \$20,000 from the general fund for increased utility costs associated with the increased need for irrigation of the formal gardens and greenhouse nursery operations; the House version provided for no increase and the Senate version provided a \$30,000 increase.

The capital improvements line item is increased by \$20,000 from the general fund to repair the cement mozaic pattern in the formal gardens, the same as the Senate version; the House provided no funding for repairing the cement mozaic pattern.

Funding of \$10,000 from the general fund reduced by the House for the administration building addition and restored by the Senate is not restored by the conference committee.

REPORT OF CONFERENCE COMMITTEE

SEN. TALLACKSON MOVED that the conference committee report on Engrossed HB 1020 be adopted, which motion prevailed.

SECOND READING OF HOUSE BILL

HB 1020: A BILL for an Act making an appropriation for defraying the expenses of the international peace garden; 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 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; 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; Tomac; Traynor; Vosper; Wogsland; Yockim

ABSENT AND NOT VOTING: Langley

HB 1020 passed, the title was agreed to, and the emergency clause carried.

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

MR. SPEAKER: The Senate does not concur in the House amendments to SCR 4073, and the President has appointed as a conference committee to act with a like committee from the House on:

SCR 4073: Sens. Satrom; Kelsh; Naaden

REPORT OF CONFERENCE COMMITTEE

HB 1167, as engrossed: Your conference committee (Sens. O'Connell, Mathern, Tennefos and Reps. Dorso, Carlisle, Huether) recommends that the SENATE RECEDE from the Senate amendments on SJ pages 861-862, amend as follows, and then place on the Seventh order:

That the Senate recede from its amendments as printed on pages 861 and 862 of the Senate Journal and pages 1011 and 1012 of the House Journal, and that Engrossed House Bill No. 1167 be amended as follows:

Page 1, line 1, after "sections" insert "39-01-02,"

Page 1, line 3, after "to" insert "the display of official number plates and window decals on state vehicles,"

Page 1, line 8, after "director" insert "; and to require a legislative council study of vehicles used by the board of higher education and institutions under its jurisdiction"

Page 1, after line 9, insert:

"SECTION 1. AMENDMENT. Section 39-01-02 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

39-01-02. Motor vehicles owned or leased by the state to display name on side of vehicles - Exceptions - Penalty. All motor vehicles owned and operated by the state, except vehicles under the control of the central vehicle management system and the official vehicle for use by the governor, must have displayed on each front door the words NORTH DAKOTA. The words must be in letters four inches [10.16 centimeters] in height. Two and one-half inches [6.35 centimeters] directly below those words there must be printed in letters one and one-half inches [3.81 centimeters] in height the name of the state agency owning or leasing the motor vehicle. The width of the display required by this section must be proportionate to the required height. The color of the lettering must be in clear and sharp contrast to the background. ~~The state highway patrol and all peace officers of this state shall enforce this section: The state auditor, in the course of spot checking or verifying the inventory of any state agency, shall include in the auditor's report to the governor and the legislative assembly any instance of noncompliance with this section that comes to the auditor's attention. The above requirements do not apply to vehicles operated by the attorney general's office, the bureau of criminal investigation, or the highway patrol; vehicles used for drivers education at state institutions; vehicles used principally in juvenile, parole, and placement services; selected cars or vehicles of the state penitentiary approved by the director of institutions; vehicles owned and operated by any entity located upon the international boundary line between the United States of America and Canada used and maintained as a memorial to commemorate the long-existing relationship of peace and good will between the people and the governments of the United States of America and Canada and to further international peace among the nations of the world, or to any truck owned by any state agency. A passenger motor vehicle bearing official plates must be in compliance with this section: The administrator of any state agency who uses or authorizes the use of a motor vehicle which is not marked as required by this section is guilty of a class B misdemeanor. The central vehicle management system vehicles must display a window decal designed by the director. The state highway patrol and all peace officers of this state shall enforce this section."~~

Page 5, after line 15, insert:

"SECTION 7. LEGISLATIVE COUNCIL STUDY OF VEHICLES USED BY THE BOARD OF HIGHER EDUCATION AND INSTITUTIONS UNDER ITS JURISDICTION. The legislative council shall study the feasibility and desirability of requiring vehicles used by the board of higher education and

institutions under its jurisdiction to be under the control of the central vehicle management system. The legislative council shall report its findings and recommendations, together with any legislation necessary to implement the recommendations, to the fifty-third legislative assembly."

Renumber accordingly

REPORT OF CONFERENCE COMMITTEE

SEN. SCHOENWALD MOVED that the conference committee report on Engrossed HB 1167 be adopted, which motion prevailed.

SECOND READING OF HOUSE BILL

HB 1167: A BILL for an Act to amend and reenact sections 39-01-02, 39-06-21, 39-06-22, 39-06-32, subsections 1 and 2 of section 39-06-33, and subsection 3 of section 39-08-01 of the North Dakota Century Code, relating to the display of official number plates and window decals on state vehicles, the filing of application records for drivers' licenses and related actions, the maintenance of driving records of licensees and the deletion of record retention requirements, the authority to suspend operator licenses and to provide an effective date for such suspensions, and to have number plates impounded by courts returned to the director; and to require a legislative council study of vehicles used by the board of higher education and institutions under its jurisdiction.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 43 YEAS, 9 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

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

NAYS: Bowman; Hanson, O.; Krebsbach; Lindgren; Nalewaja; Solberg; Stenehjem; Traynor; Vosper

ABSENT AND NOT VOTING: Langley

HB 1167 passed and the title was agreed to.

REPORT OF CONFERENCE COMMITTEE

HB 1378: Your conference committee (Sens. Keller, Krauter, David and Reps. Dorso, Carlisle, Oban) recommends that the SENATE RECEDE from the Senate amendments on SJ pages 997-998, amend as follows, and then place on the Seventh order:

That the Senate recede from its amendments as printed on pages 997 and 998 of the Senate Journal and pages 1366 and 1367 of the House Journal, and that House Bill No. 1378 be amended as follows:

Page 1, line 1, after "52-01-01" insert ", subdivision e of subsection 18 of section 52-01-01, and section 65-01-03"

Page 1, line 3, after "contractor" insert "and exclusions from employment" and after "purposes" insert "and to the definition of an independent contractor for workers' compensation purposes"

Page 3, line 24, replace "right to control" with "common law"

Page 3, after line 24, insert:

"SECTION 2. AMENDMENT. Subdivision e of subsection 18 of section 52-01-01 of the North Dakota Century Code is amended and reenacted as follows:

- e. Service performed by an individual in the employ of his the individual's son, daughter, or spouse, and service performed by a child under the age of eighteen minor in the employ of his the minor's father or mother and dwelling in the household of the minor's father or mother.

SECTION 3. AMENDMENT. Section 65-01-03 of the North Dakota Century Code is amended and reenacted as follows:

65-01-03. Person performing service for remuneration presumed an employee. Each person who performs services for another for a remuneration, whether the same is paid as a salary, commission, or other considerations in lieu thereof, under any agreement or contract of hire, express or implied, shall be is presumed to be an employee of the person for whom the services are performed, unless he shall maintain the person maintains a separate business establishment or shall hold himself holds that person out to render or shall render renders services to the general public.

In determining whether a person is an independent contractor or an employee, the primary test to be employed is the "right to control common law" test."

Renumber accordingly;

REPORT OF CONFERENCE COMMITTEE

SEN. LANGLEY MOVED that the conference committee report on Reengrossed HB 1378 be adopted, which motion prevailed.

SECOND READING OF HOUSE BILL

HB 1378: A BILL for an Act to amend and reenact subsection 17 of section 52-01-01, subdivision e of subsection 18 of section 52-01-01, and section 65-01-03 of the North Dakota Century Code, relating to the definition of an independent contractor and exclusions from employment for unemployment compensation purposes and to the definition of an independent contractor for workers' compensation purposes.

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; 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; Tomac; Traynor; Vosper; Wogsland; Yockim

ABSENT AND NOT VOTING: Langley

HB 1378 passed and the title was agreed to.

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 appointed Rep. Hausauer to replace Rep. Payne on the Conference Committee on SB 2018.

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:

SCR 4073: Reps. Trautman; Wardner; Scherber

MESSAGE to the HOUSE from the SENATE (Marion Houn, Secretary)
MR. SPEAKER: The Senate has adopted the conference committee report on HB 1002, HB 1014, HB 1020, and HB 1378 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 2005.

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 Sixty-third Day and recommends that it be corrected as follows and when so corrected, recommends that it be approved:

Page 1598, line 9, replace "a" with "two" and replace "section" with "sections"

Page 1598, line 11, after "fund" insert "and to create an advisory board"

Page 1598, line 50, after the second ";" insert "to provide a statement of legislative intent;"

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

REPORT OF CONFERENCE COMMITTEE

HB 1534: Your conference committee (Sens. Dotzenrod, Tomac, Tennefos (refused to sign) and Reps. Timm, Freier, Williams) recommends that the SENATE RECEDE from the Senate amendments on SJ pages 1203-1204, amend as follows, and then place on the Seventh order:

That the Senate recede from its amendments as printed on pages 1203 and 1204 of the Senate Journal and page 1420 of the House Journal, and that House Bill No. 1534 be amended as follows:

Page 4, line 2, overstrike "Provided, however, that the" and insert immediately thereafter "A municipality may also grant a partial exemption from ad valorem taxation on tangible property used in or necessary to the operation of a project that produces or manufactures a product from agricultural commodities grown in this state of up to one hundred percent in the sixth year from the date of commencement of project operations, eighty percent in the seventh year from the date of commencement of project operations, sixty percent in the eighth year from the date of commencement of project operations, forty percent in the ninth year from the date of commencement of project operations, and twenty percent in the tenth year from the date of commencement of project operations. An"

Renumber accordingly

REPORT OF CONFERENCE COMMITTEE

SEN. DOTZENROD MOVED that the conference committee report on Reengrossed HB 1534 be adopted, which motion prevailed.

SECOND READING OF HOUSE BILL

HB 1534: A BILL for an Act to amend and reenact sections 40-57.1-01, 40-57.1-02, 40-57.1-03, 40-57.1-04, 40-57.1-04.1, 40-57.1-04.3, 40-57.1-05, 40-57.1-06, and 40-57.1-07 of the North Dakota Century

Code, relating to tax exemptions for new and expanding industries; and to repeal section 40-57.1-04.2 of the North Dakota Century Code, relating to the definition of a local development corporation.

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, 0 EXCUSED, 2 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; Krauter; Krebsbach; Lindaas; Lindgren; Lips; Marks; Mathern; Maxson; Meyer; Moore; Mushik; Mutch; Naaden; Nalewaja; Nelson; Nething; O'Connell; Peterson; Redlin; Robinson; Satrom; Schoenwald; Solberg; Stenehjelm; Streibel; Tallackson; Tennefos; Thane; Tomac; Traynor; Vosper; Wogsland; Yockim

ABSENT AND NOT VOTING: Kinnoin; Langley

HB 1534 passed and the title was agreed to.

REPORT OF CONFERENCE COMMITTEE

HB 1013, as engrossed: Your conference committee (Sens. Redlin, Satrom, Nething and Reps. Howard, Gerndholz, Laughlin) recommends that the HOUSE ACCEDE to the Senate amendments on SJ page 1147 and then place it on the Seventh order.

REPORT OF CONFERENCE COMMITTEE

SEN. TALLACKSON MOVED that the conference committee report on Engrossed HB 1013 be adopted, which motion prevailed.

REPORT OF CONFERENCE COMMITTEE

SB 2020, as engrossed: Your conference committee (Sens. Satrom, Lindaas, Ingstad and Reps. Rydell, R. Berg, Starke) recommends that the HOUSE RECEDE from the House amendments on SJ pages 1314-1315, amend as follows, and then place on the Seventh order:

That the House recede from its amendments as printed on pages 1314 and 1315 of the Senate Journal and pages 1432-1434 of the House Journal, and that Engrossed Senate Bill No. 2020 be amended as follows:

Page 1, line 2, after "agencies" insert "; and requiring reports on the group insurance plan"

Page 1, line 21, replace "1,367,113" with "1,157,314"

Page 1, line 22, replace "385,250" with "377,250"

Page 2, line 1, replace "641,294" with "620,344"

Page 2, line 2, replace "63,540" with "48,340"

Page 2, line 3, replace "Self-funded health insurance" with "Health insurance program"

Page 2, line 5, replace "2,632,197" with "2,378,248"

Page 2, line 6, replace "5,606,196" with "5,352,247"

Page 2, after line 6, insert:

"SECTION 2. REPORT TO BUDGET SECTION OF LEGISLATIVE COUNCIL. In addition to the report required under North Dakota Century Code section 54-52.1-04.3, the public employees retirement board shall report to the budget section of the legislative council during the

1991-92 interim. The report must describe the status of the group insurance plan's reserve fund, the required balance of the reserve fund, and what action or events are necessary or have occurred in reaching the required balance."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

DEPARTMENT 192 - PUBLIC EMPLOYEES RETIREMENT SYSTEM (PERS)

The amendment reduces the appropriation by \$253,949 as follows:

	FTE	SALARIES AND WAGES	INFORMATION SERVICES	OPERATING EXPENSES	EQUIPMENT	TOTAL
Flex comp program	2.5	\$123,624	\$5,000	\$15,475	\$ 9,020	\$153,119
Pre-retire- ment	.5	28,725	1,000	3,425	3,430	36,580
Benefits program manager	1.0	57,450	2,000	2,050	2,750	64,250
Total	4.0	\$209,799	\$8,000	\$20,950	\$15,200	\$253,949

FlexComp Program

The program is to continue on a contract basis with a consultant firm. Through a competitive contract basis, the PERS Board is to ensure that the party providing the services is not to promote or sell its services while enrolling employees in the FlexComp program.

Pre-retirement Counseling Program

Funding remains in the budget after the amendments to allow PERS the resources to continue its pre-retirement counseling program.

Benefits Program Manager

The funding for this position was from federal funds. If PERS receives a federal grant for this position and related expenses, the board is to ask for Emergency Commission approval to receive the grant.

Self-Funded Health Insurance

The amount of \$125,000 provided by the Senate for a self-funded health insurance program is deleted since PERS and Blue Cross Blue Shield have reached an agreement regarding a fully insured contract.

The conference committee amendment provides \$125,000 for the health insurance program to fund one FTE research analyst II position and related expenses to analyze health cost data.

The amendment requires the PERS Board to report to the Budget Section of the Legislative Council. The report is to describe the status of the group insurance plan reserve fund, its required balance, and how the balance can be or will be reached. Under North Dakota Century Code Section 54-52.1-04.3 the board is required to report the necessary balance of the reserve fund.

REPORT OF CONFERENCE COMMITTEE

SEN. TALLACKSON MOVED that the conference committee report on Engrossed SB 2020 be adopted, which motion prevailed.

SECOND READING OF SENATE BILL

SB 2020: A BILL for an Act making an appropriation for defraying the expenses of various state retirement and investment agencies; and requiring reports on the group insurance plan.

ROLL CALL

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

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

ABSENT AND NOT VOTING: Heigaard; Kinnoin; Langley

SB 2020 passed and the title was agreed to.

MOTION

SEN. WOGSLAND MOVED that the Senate dissolve the Conference Committee on SB 2596, and a new conference committee be appointed, which motion prevailed.

CONSIDERATION OF MESSAGE FROM THE HOUSE

SEN. TALLACKSON MOVED that the Senate do not concur in the House amendments to Engrossed SB 2596 as printed on SJ pages 1453-1454 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 2596: Sens. Mushik, Wogsland, Thane.

MOTION

SEN. WOGSLAND MOVED that the vote by which SB 2005, HB 1002, HB 1014, HB 1020, HB 1167, HB 1378, HB 1534, HB 1013, and SB 2020 passed be reconsidered and the motion to reconsider be laid on the table, which motion prevailed.

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 2016: Reps. Myrdal; Waid; Nowatzki

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

MR. PRESIDENT: The House has adopted the conference committee report on HB 1031 and HB 1200 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 1022.

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

MR. PRESIDENT: The House has adopted the conference committee report on SB 2039.

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

MR. PRESIDENT: The House has adopted the conference committee report on SB 2507 and SB 2595 and subsequently passed the same.

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 SENATE from the HOUSE (Roy Gilbreath, Chief Clerk)

MR. PRESIDENT: The House has concurred in the Senate amendments to HB 1079 and subsequently passed the same.

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 1048, HB 1383.

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

MR. SPEAKER: The Senate has dissolved its conference committee on SB 2596 and has appointed a new committee to act with a like committee from the House on:

SB 2596: Sens. Mushik; Wogsland; Thane

SIGNING OF BILLS AND RESOLUTIONS

The President signed the following enrolled bills and resolution: SB 2010, SB 2034, SB 2036, SB 2090, SB 2113, SB 2115, SB 2149, SB 2151, SB 2205, SB 2206, SB 2231, SB 2335, SB 2385, SB 2542, SB 2572, SB 2591, SCR 4058.

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

MR. SPEAKER: The President has signed and your signature is respectfully requested on: SB 2010, SB 2034, SB 2036, SB 2090, SB 2113, SB 2115, SB 2149, SB 2151, SB 2205, SB 2206, SB 2231, SB 2335, SB 2385, SB 2542, SB 2572, SB 2591, SCR 4058.

REPORT OF STANDING COMMITTEE

HB 1614, as engrossed: Committee on Appropriations (Sen. Tallackson, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (10 YEAS, 3 NAYS, 1 ABSENT AND NOT VOTING). The proposed amendment was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act providing an appropriation for a North Dakota higher education center; providing appropriations for various institutions under the state board of higher education; providing an appropriation for the professional student exchange program; to authorize the industrial commission, acting as the state building authority, to issue loan notes to make funds available for construction and remodeling projects at institutions of higher education; and for a contingent appropriation for capital construction projects at institutions of higher education.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. 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, to the board of higher education for the purpose of a North Dakota higher education center for the biennium beginning July 1, 1991, and ending June 30, 1993:

Salaries and wages	\$126,614
Operating expenses	135,807
Equipment	35,000
Total general fund appropriation	\$297,421

SECTION 2. 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, to the institutions of higher education under the

supervision of the board of higher education for the purpose of defraying the expenses thereof, for the biennium beginning July 1, 1991, and ending June 30, 1993:

University of North Dakota - Williston	\$ 85,000
Physical plant operating expenses	
University of North Dakota	600,000
Physical plant operating expenses	
North Dakota college of science	231,400
Capital improvements	
NDSU-Bottineau - Interactive video network site	187,883
Total general fund appropriation	<u>\$1,104,283</u>

SECTION 3. APPROPRIATION. There is hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, \$167,100, or so much thereof as may be necessary, to the board of higher education for the purpose of the professional student exchange program for the biennium beginning July 1, 1991, and ending June 30, 1993.

SECTION 4. PROJECT AUTHORIZATION - APPROPRIATION. The industrial commission, acting as the state building authority, shall arrange for the funding of the following projects, which are declared to be in the public interest, through the issuance of loan notes under chapter 54-17.2, during the biennium beginning July 1, 1991, and ending June 30, 1993. The industrial commission may offer loan notes issued under this section for sale only to the Bank of North Dakota at a price that is as representative as possible of the current market interest rates for comparable loan notes purchased by the Bank of North Dakota. The proceeds of the loan notes and other available funds are hereby appropriated during the biennium beginning July 1, 1991, and ending June 30, 1993, for the following projects:

NAME OF AGENCY, DEPARTMENT, OR INSTITUTION	TYPE OF FACILITY	CONSTRUCTION FUNDS
Minot state university	Remodel former library	\$ 2,500,000
State college of science	Remodel Horton hall	1,373,350
University of North Dakota	Remodel Abbott hall	2,600,000
University of North Dakota - Williston	Multipurpose facility	2,800,000
University of North Dakota - lake region	Library addition	668,000
Bismarck state college	Science center	6,500,000
North Dakota state university	Animal health and biotechnology center	5,000,000
Valley City state university	Physical education addition	2,000,000
Total		<u>\$23,441,350</u>

The industrial commission shall issue loan notes authorized under this section with the condition that lease rental payments need not begin until July 1, 1993. This authority of the industrial commission to issue loan notes expires on June 30, 1993, but the industrial commission may continue to exercise all other powers granted to it under chapter 54-17.2 and this Act and to comply with any covenants entered into before that date.

In addition, the state board of higher education may obtain and utilize federal funds for the construction costs of the animal health and biotechnology center at North Dakota state university. There is hereby appropriated to the state board of higher education from any federal or other funds that become available the sum of \$5,000,000, or so much thereof as may be necessary, for the construction of such a

facility at North Dakota state university for the biennium beginning July 1, 1991, and ending June 30, 1993.

SECTION 5. LEGISLATIVE INTENT. It is the intent of the legislative assembly that a total of \$708,400 from nongeneral fund sources will become available over the term of the loan notes to assist in the retirement of the loan notes, issued for the project costs associated with construction of the projects authorized by this Act, in the following amounts:

Bismarck state college	Science center	\$325,000
North Dakota state university	Animal health and biotechnology center	250,000
University of North Dakota - lake region	Library addition	33,400
Valley City state university	Physical education addition	100,000
Total		<u>\$708,400</u>

SECTION 6. APPROPRIATION. The sums hereinafter listed, or so much thereof as may be necessary, are hereby appropriated, subject to the actual general fund balance on June 30, 1993, as provided for in section 7, out of the general fund, to the institutions of higher education for the purpose of providing funds for capital construction projects for the biennium beginning July 1, 1993, and ending June 30, 1995.

NAME OF AGENCY, DEPARTMENT, OR INSTITUTION	TYPE OF FACILITY	TOTAL CONSTRUCTION COSTS
University of North Dakota	Communications building	\$10,000,000
Dickinson state university	Physical education multipurpose classroom facility	7,000,000
Minot state university	Business college classroom and lab building	5,000,000
Total contingent appropriation		<u>\$22,000,000</u>

SECTION 7. CONTINGENT APPROPRIATION. The amounts appropriated in section 6 of this Act shall be made available after July 1, 1993, only if the actual unobligated general fund balance on June 30, 1993, is at least \$12,000,000 greater than estimated at the close of the regular session of the fifty-second legislative assembly. The amount by which the actual unobligated June 30, 1993, general fund balance exceeds original estimates in excess of \$12,000,000 must be deposited in a special fund for capital construction and may be spent pursuant to the appropriations contained in this Act only when sufficient funds are available to complete all facilities listed in section 6."

Renumber accordingly

CONSIDERATION OF AMENDMENTS

HB 1614, as engrossed: SEN. TALLACKSON (Committee on Appropriations) MOVED that the amendments be adopted with DO PASS, which motion prevailed on a verification vote.

SECOND READING OF HOUSE BILL

HB 1614: A BILL for an Act providing an appropriation for a North Dakota higher education center; providing appropriations for various institutions under the state board of higher education; providing an appropriation for the professional student exchange program; to authorize the industrial commission, acting as the state building authority, to issue loan notes to make funds available for construction and remodeling projects at institutions of higher education; and for a

contingent appropriation for capital construction projects at institutions of higher education.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 25 YEAS, 27 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: David; Evanson; Graba; Hanson, E.; Heinrich; Jerome; Keller; Kelly; Krebsbach; Lindaas; Lindgren; Lips; Mathern; Maxson; Mushik; Nalewaja; O'Connell; Redlin; Robinson; Satrom; Schoenwald; Tallackson; Thane; Traynor; Yockim

NAYS: Bowman; DeKrey; Dotzenrod; Freborg; Goetz; Hanson, O.; Heigaard; Holmberg; Ingstad; Kelsh; Kinnoin; Krauter; Marks; Meyer; Moore; Mutch; Naaden; Nelson; Nething; Peterson; Solberg; Stenehjem; Streibel; Tennefos; Tomac; Vosper; Wogsland

ABSENT AND NOT VOTING: Langley

HB 1614 lost.

REPORT OF CONFERENCE COMMITTEE

SB 2234, as engrossed: Your conference committee (Sens. Marks, Meyer, Stenehjem and Reps. Clayburgh, Kelsh, Ring) recommends that the HOUSE RECEDE from the House amendments on SJ pages 1470-1475, amend as follows, and then place on the Seventh order:

That the House recede from its amendments as printed on pages 1142-1148 of the House Journal and pages 1470-1475 of the Senate Journal and that Senate Bill No. 2234 be amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide for the creation of an office of administrative hearings, the appointment of a director of administrative hearings and other administrative hearings officers, to require the adoption of uniform rules of administrative practice and procedure, and to establish an advisory council; to repeal subsection 2 of section 50-24.4-18 and subsection 18 of section 54-12-01 of the North Dakota Century Code, relating to appointment of administrative hearings officers by the attorney general and certain appeals by nursing homes; to provide an appropriation; and to provide for a transfer.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Office of administrative hearings - Agency defined - Administrative agency defined.

1. A state office of administrative hearings is created.
2. The office is under the direction of a director of administrative hearings who must be free of any association that would impair the director's ability to function officially in a fair and objective manner. The director must be an attorney-at-law in good standing, admitted to the bar in this state, and currently licensed by the state bar board. The director of administrative hearings must be appointed by the governor and confirmed by the senate and shall hold office for a term of six years, the term beginning July first of the year of appointment and ending June thirtieth of the sixth calendar year after appointment.
3. The director of administrative hearings may preside at administrative hearings and may employ or appoint additional administrative hearings officers to serve in the office as

necessary to fulfill the duties of office as described in section 4 of this Act and to provide administrative hearings officers to preside at administrative hearings as requested by agencies. The director may delegate to an employee the exercise of a specific statutory power or duty as deemed advisable, subject to the director's control, including the powers and duties of a deputy director. All administrative hearings officers must be classified employees, except that the director of administrative hearings must be an unclassified employee who only may be removed, during a term of office, for cause. Each administrative hearings officer must have a demonstrated knowledge of administrative practices and procedures and must be free of any association that would impair the officer's ability to function officially in a fair and objective manner.

4. The director of administrative hearings may employ the necessary support staff required by the office. Support staff must be classified employees.
5. The director of administrative hearings shall develop categories of positions in the classified service under class titles for the appointment or employment of hearings officers and support staff in consultation with and approved by the director of the central personnel division, including the salary to be paid for each position or category of position.
6. In this Act, unless the context or subject matter otherwise requires, "agency" means each board, bureau, commission, department, or other administrative unit of the executive branch of state government whether headed by an appointed or elected official.
7. In this Act, unless the context or subject matter otherwise requires, "administrative agency" means that term as defined in section 28-32-01.

SECTION 2. Temporary administrative hearings officers. When regularly appointed administrative hearings officers are not available, the director of administrative hearings may contract on a temporary basis with qualified individuals to serve as administrative hearings officers for the office of administrative hearings.

SECTION 3. Hearings before administrative hearings officers.

1. Notwithstanding the authority granted in chapter 28-32 allowing agency heads or other persons to preside in an administrative proceeding, all hearings of administrative agencies under chapter 28-32, except hearings conducted by the public service commission, the industrial commission, the commissioner of insurance, the workers compensation bureau, the state engineer, the department of transportation, job service North Dakota, and the commissioner of labor, and except rulemaking hearings held in accordance with section 28-32-02, must be conducted by the office of administrative hearings in accordance with the administrative hearings provisions of chapter 28-32 and any rules adopted pursuant to chapter 28-32. But, appeals hearings pursuant to section 61-03-22 and drainage appeals from water resource boards to the state engineer pursuant to chapter 61-32 must be conducted by the office of administrative hearings. Additionally, hearings of the department of corrections and rehabilitation for the parole board in accordance with chapters 12-56.1 and 12-59, regarding parole violations; job discipline and dismissal appeals to the board of higher education; education of the handicapped act due process hearings of the superintendent of public instruction; and

chapter 37-19.1 veterans' preferences hearings for any agency must be conducted by the office of administrative hearings in accordance with applicable laws.

2. The agency head shall make a written request to the director requesting the designation of a hearings officer for each administrative hearing to be held. An agency may request a hearings officer to be designated to preside over the entire administrative proceeding. If a statute so requires, an agency shall, or unless a statute prohibits, an agency may, request that the hearings officer designated issue the final order in the matter. Informal disposition of an administrative proceeding may be made by an agency at any time before or after the designation of a hearings officer from the office of administrative hearings.
3. If a party to an administrative proceeding is in default, the agency may issue a default order and a written notice of default, including a statement of the grounds for default. If issued, the default notice and order must be served upon all the parties and the hearings officer, if one has been assigned. After service of the default notice and order, the agency may conduct further proceedings necessary to complete the administrative action with or without the participation of the party in default, and with or without a hearings officer from the office of administrative hearings presiding. The agency shall determine all the issues involved.
4. When assigning administrative hearings officers to conduct administrative hearings or to preside in an administrative proceeding, the director shall attempt to assign a hearings officer having expertise in the subject matter to be dealt with.
5. The director of administrative hearings may assign an administrative hearings officer to preside in an administrative proceeding, upon request, to any agency exempted from the provisions of this section, to any agency, or part of any agency, that is not an administrative agency subject to the provisions of chapter 28-32, to any unit of local government in this state, or to any agency to conduct a rulemaking hearing.

SECTION 4. Duties of administrative hearings officers. It is the duty of all administrative hearings officers to:

1. Advise an agency that has requested a hearings officer, and other affected interests and parties, about the location and time for an administrative hearing, or related proceeding, to be held, in order to allow for participation by all affected interests and parties. The hearings officer shall give proper notice as required by law.
2. Conduct only hearings and related proceedings for which proper notice has been given.
3. Assure that all hearings and related proceedings are conducted in a fair and impartial manner.
4. When appropriate, make findings of fact, conclusions of law, and recommendations, taking notice whether the agency has documented its statutory authority to take the proposed action, fulfilled all relevant substantive and procedural requirements of law or rule, and, in rulemaking proceedings, conformed to the provisions of chapter 28-32.

5. Perform any and all other functions required by law, assigned by the director of administrative hearings, or delegated to the hearings officers by the agency.
6. When an agency requests a hearings officer to preside only as a procedural hearings officer, the hearings officer may only conduct the hearing and perform such other functions of the proceeding as requested. If the hearings officer is presiding only as a procedural hearings officer, the agency head must be present at the hearing and the agency head shall issue findings of fact and conclusions of law, as well as any order resulting from the hearing. The procedural hearings officer may issue orders in regard to the conduct of the hearing, pursuant to statute or rule, and to otherwise effect an orderly and prompt disposition of the proceedings.

SECTION 5. Uniform rules of administrative practice or procedure - Effective date - Hearings officer rules.

1. The director of administrative hearings shall adopt, in accordance with chapter 28-32, rules of administrative hearings practice or procedure which implement chapter 28-32 and which aid in the course and conduct of all administrative hearings and related proceedings conducted by administrative agencies under chapter 28-32. The uniform rules must be effective January 1, 1992. The uniform rules must be used by all administrative agencies subject to chapter 28-32 which do not have their own rules of administrative hearings practice or procedure governing the course and conduct of hearings. If an administrative agency's rules are silent on any aspect of the agency's administrative hearings practice or procedure, the applicable uniform rule governs.
2. The director of administrative hearings may adopt rules to further establish qualifications for hearings officers; to establish procedures for requesting and designating hearings officers; and to facilitate the performance of duties and responsibilities conferred by sections 1 through 8 of this Act. Any rules adopted by the director of administrative hearings pursuant to this subsection must be adopted in accordance with chapter 28-32.

SECTION 6. Transfer and transition provisions.

1. There is transferred from all agencies required to use the office of administrative hearings to conduct administrative hearings, to the office of administrative hearings, on the effective date of this Act, the following:
 - a. All functions performed on the day before the effective date of this Act by hearings officers of the agency, pursuant to the administrative hearings provisions of chapter 28-32, and any rules adopted pursuant to it, or any other applicable law, which must now be performed by hearings officers of the office of administrative hearings on and after the effective date of this Act.
 - b. The full-time equivalents of any agency hearings officer positions which are dedicated to the appointment or employment full time, or half time or more, of administrative hearings officers. Any individual appointed or employed pursuant to such full-time equivalent whose position is transferred to the office of administrative hearings may elect to accept the transfer, with no reduction in pay, or may elect to remain employed by the agency in another position, if offered by the agency.

- c. The full-time equivalents of any agency positions that are dedicated to the appointment or employment full time, or half time or more, of support staff for administrative hearings officers or their work. Any individual who is appointed or employed pursuant to such full-time equivalent whose position is transferred to the office of administrative hearings may elect to accept the transfer, with no reduction in pay or classification, or may elect to remain employed by the agency in another position, if offered by the agency.
 - d. All property, equipment, materials, and copies of records held, used, arising from, available, or to be made available, in connection with the functions, individuals, and authority transferred by this section, as needed and required by the office of administrative hearings.
2. If the director of administrative hearings and the agency transferring any position or any property, equipment, materials, or copies of records to the office of administrative hearings cannot agree about who or what is to be transferred, the director of the office of management and budget may make determinations with regard to transfers to carry out sections 1 through 8 of this Act, to accommodate the needs and requirements of the office of administrative hearings, and to accommodate a smooth transition of positions, persons, property, equipment, materials, and records.
 3. The director of the office of management and budget, if necessary, may require agencies to allow the use of agency facilities on a temporary basis to allow for an orderly consolidation of the office of administrative hearings, personnel, property, equipment, materials, and copies of records in one location as space becomes available.
 4. Administrative proceedings in progress at the time of the effective date of this Act may be transferred to the office of administrative hearings to be conducted in accordance with applicable law only if the same person or persons currently involved in conducting the proceedings for the agency is available to conduct the proceedings for the office of administrative hearings. Otherwise, an administrative proceeding in progress at the time of the effective date of this Act must be handled by the agency or person previously involved, in accordance with applicable law.

SECTION 7. Compensation for provision of hearings officers - Special fund established - Continuing appropriation.

1. The office of administrative hearings may require payment for services rendered by any administrative hearings officer provided by it to any agency, or any unit of local government, in the conduct of an administrative hearing and related proceedings and those entities must make the required payment to the office. Payment may include payment for support staff necessary to render hearings officer services. General fund moneys may not be used for payment by state agencies pursuant to this subsection. Moneys received by the office of administrative hearings in payment for providing an administrative hearings officer to conduct an administrative hearing and related proceedings must be deposited into the operating fund of the office of administrative hearings.
2. The office of administrative hearings may require payment for mileage, meals, and lodging in connection with services rendered by an administrative hearings officer provided to

any agency, or any unit of local government, in the conduct of an administrative hearing and related proceedings, and those entities must make the required payment to the office. Payment for meals and lodging must be in the amounts allowable under section 44-08-04. Payment for mileage when using state vehicles must be in amounts set for user charges under section 24-02-03.5. All other payments must be in amounts allowed for other state officials and employees. Either general fund or special fund moneys, or other income, may be used for the payment of mileage, meals, and lodging under this subsection.

3. A special fund is established in the state treasury and designated as the administrative hearings fund. The director of administrative hearings shall deposit in the fund all moneys received by the office of administrative hearings in payment for providing temporary administrative hearings officers to conduct administrative hearings and related proceedings under this Act, as well as all moneys received by the office in payment for mileage, meals, and lodging in connection with providing any administrative hearings officer to conduct an administrative hearing and related proceedings. The moneys in the fund are a standing and continuing appropriation and are appropriated, as necessary, for the following purposes:
 - a. For the director of administrative hearings to contract with and make payment to temporary administrative hearings officers, as necessary, for the purpose of providing requested administrative hearings officers to agencies or any unit of local government.
 - b. For the director of administrative hearings to pay mileage, meals, and lodging to any hearings officers, as necessary, in connection with the services to be provided by this Act.

SECTION 8. ADVISORY COUNCIL. There is created a state advisory council for administrative hearings. The advisory council must be a committee or subcommittee of the state bar association of North Dakota, appointed by its president. The advisory council shall meet with the director at least semiannually and shall advise the director on policy matters affecting the office of administrative hearings and on rules adopted by the director.

SECTION 9. REPEAL. Subsection 2 of section 50-24.4-18 and subsection 18 of section 54-12-01 of the North Dakota Century Code are repealed.

SECTION 10. APPROPRIATION. The funds provided in this section, or so much thereof as may be necessary, are hereby appropriated from special funds derived from federal funds and other income to the office of administrative hearings for the purpose of providing administrative hearings officers for state agencies, and such units of local government, as may require hearings officer services, for the biennium beginning July 1, 1991, and ending June 30, 1993, as follows:

Salaries and wages	\$484,477
Information Services Division	19,000
Operating expenses	67,816
Equipment	33,232
Total estimated income	<u>\$604,525</u>

SECTION 11. TRANSFER - ATTORNEY GENERAL - OFFICE OF MANAGEMENT AND BUDGET. There are hereby transferred the amounts of \$161,443 and \$78,076, now contained in the budgets of the attorney general and the office of management and budget, respectively, or so much thereof as

may be necessary, to the office of administrative hearings for the purpose of providing the services authorized in this Act for the biennium beginning July 1, 1991, and ending June 30, 1993, subject to emergency commission approval. The emergency commission, notwithstanding section 54-16-04, is authorized during the biennium beginning July 1, 1991, and ending June 30, 1993, to approve these transfers of funds which are appropriated in section 10 of this Act to the extent necessary and based upon application by the office of administrative hearings."

Renumber accordingly

REPORT OF CONFERENCE COMMITTEE

SEN. MAXSON MOVED that the conference committee report on Engrossed SB 2234 be adopted, which motion prevailed.

SECOND READING OF SENATE BILL

SB 2234: A BILL for an Act to provide for the creation of an office of administrative hearings, the appointment of a director of administrative hearings and other administrative hearings officers, to require the adoption of uniform rules of administrative practice and procedure, and to establish an advisory council; to repeal subsection 2 of section 50-24.4-18 and subsection 18 of section 54-12-01 of the North Dakota Century Code, relating to appointment of administrative hearings officers by the attorney general and certain appeals by nursing homes; to provide an appropriation; and to provide for a transfer.

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, 1 NAY, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Bowman; David; DeKrey; Dotzenrod; Evanson; Freborg; Goetz; Graba; Hanson, E.; Hanson, O.; Heigaard; Holmberg; Ingstad; Jerome; Keller; Kelly; Kelsh; Kinnoin; Krauter; Krebsbach; 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; Tomac; Traynor; Vosper; Wogsland; Yockim

NAYS: Heinrich

ABSENT AND NOT VOTING: Langley

SB 2234 passed and the title was agreed to.

REPORT OF CONFERENCE COMMITTEE

SB 2324, as engrossed: Your conference committee (Sens. Heinrich (refused to sign), Jerome, Stenehjem and Reps. Freier, Kunkel, Goffe) recommends that the HOUSE RECEDE from the House amendments on SJ page 1186, further amend as follows, and then place on the Seventh order:

That the House recede from the House amendments as printed on pages 1280-1281 of the House Journal and page 1186 of the Senate Journal, and that Engrossed Senate Bill No. 2324 be amended as follows:

Page 1, line 22, remove the overstrike over "~~who accepts a retirement allowance under~~"

Page 2, line 1, remove the overstrike over "~~chapter 39-03.1,~~" and insert immediately thereafter "52-11," remove the overstrike over "~~54-52, 45-39.1,~~" and remove the overstrike over "~~under the alternative retirement program~~"

Page 2, line 2, remove the overstrike over "~~provided by the state board of higher education~~" and replace "with at least ten continuous" with "or a retired state employee who is receiving social security retirement benefits pursuant to 42 U.S.C. 402,"

Page 2, line 3, remove "years of state employment" and remove the overstrike over "~~at the time of retirement~~"

Page 2, line 7, remove the overstrike over "~~retires from employment~~"

Page 2, line 8, remove the overstrike over "~~with~~" and remove "leaves the employ of"

Page 2, line 10, remove the overstrike over "~~prior to retirement~~"

Reumber accordingly

REPORT OF CONFERENCE COMMITTEE

SEN. KELLER MOVED that the conference committee report on Engrossed SB 2324 be adopted, which motion prevailed.

SECOND READING OF SENATE BILL

SB 2324: A BILL for an Act to amend and reenact section 54-06-14 of the North Dakota Century Code, relating to partial payment of sick leave benefits upon leaving the employ of the state.

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; Kelsch; Kinnoin; Krauter; Krebsbach; Lindaas; Lindgren; Lips; Marks; Mathern; Maxson; Meyer; Moore; Mushik; Mutch; Naaden; Nalewaja; Nelson; Nething; O'Connell; Peterson; Redlin; Robinson; Satrom; Schoenwald; Solberg; Stenehjelm; Streibel; Tallackson; Tennefos; Thane; Tomac; Traynor; Vosper; Wogsland; Yockim

ABSENT AND NOT VOTING: Langley

SB 2324 passed and the title was agreed to.

REPORT OF CONFERENCE COMMITTEE

SB 2594, as engrossed: Your conference committee (Sens. Satrom, Yockim, Goetz and Reps. Wentz, Gerntholz, Laughlin) recommends that the HOUSE RECEDE from the House amendments on SJ page 1478, amend as follows, and then place on the Seventh order:

That the House recede from its amendments as printed on pages 1577 and 1578 of the House Journal and page 1478 of the Senate Journal, and that Engrossed Senate Bill No. 2594 be amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide an appropriation for additional compensation to North Dakota state employees, to amend and reenact sections 4-01-21, 15-21-02, 26.1-01-09, 27-02-02, 27-05-03, 34-05-01.2, 49-01-05, 54-07-04, 54-08-03, 54-09-05, 54-10-10, 54-11-13, 54-12-11, and 57-01-04 of the North Dakota Century Code, relating to the salaries of the commissioner of agriculture, superintendent of public instruction, commissioner of insurance, supreme court justices, district court judges, commissioner of labor, public service commissioners, governor, lieutenant governor, secretary of state, state auditor, state treasurer, attorney general, and tax commissioner; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The sums hereinafter listed, or so much thereof as may be necessary, are hereby appropriated out of the general fund and from special funds or moneys derived from federal funds or income in the state treasury as indicated to the agencies and institutions of state government named for the purpose of providing additional compensation to employees for the various agencies and institutions for the period beginning July 1, 1992, and ending June 30, 1993:

AGENCY OR INSTITUTION	GENERAL FUND	SPECIAL FUNDS	TOTAL
Governor	\$ 8,435		\$ 8,435
Lieutenant governor	1,691		1,691
Secretary of state	14,089		14,089
Office of management and budget			
Facility management	33,571		33,571
Central operations	36,066		36,066
Information services division		\$ 72,680	72,680
State auditor	23,078	13,553	36,631
Central duplicating services		13,524	13,524
State treasurer	5,072		5,072
Attorney general	68,453	3,602	72,055
Tax department	87,896		87,896
Legislative council	22,772		22,772
Supreme court	32,589		32,589
Judicial qualifications commission	2,254		2,254
District court	54,322		54,322
Retirement and investment office		12,361	12,361
Public employees retirement board		12,962	12,962
Public instruction	34,155	41,744	75,899
Board of higher education	7,816		7,816
Land department		10,989	10,989
Bismarck state college	80,120		80,120
UND-Lake Region	26,550		26,550
UND-Williston	27,836		27,836
University of North Dakota	585,288		585,288
Medical center rehabilitation hospital		109,395	109,395
University of North Dakota medical center	122,387	81,931	204,318
State toxicologist	4,332		4,332
North Dakota state university	456,891		456,891
North Dakota state college of science	145,154		145,154
Dickinson state university	75,129		75,129
Mayville state university	45,136		45,136
Minot state university	159,204		159,204
Valley City state university	68,265		68,265
NDSU-Bottineau branch	25,440		25,440
North Dakota forest service	11,947		11,947
State library	13,810		13,810
School for the deaf	29,615		29,615
School for the blind	19,806		19,806
Vocational education	8,169	9,984	18,153
State department of health and consolidated laboratories	97,076	64,718	161,794
Veterans home	16,071	24,106	40,177
Indian affairs commission	1,127		1,127
Veterans affairs	2,818		2,818
Children's services coordinating committee	2,215		2,215
Department of human services			
Executive office	997	111	1,108
Managerial support	34,577	15,535	50,112
Economic assistance	19,345	6,448	25,793

Medical assistance	7,924	13,491	21,415
Vocational rehabilitation	12,050	11,578	23,628
Office of field services	38,147	1,180	39,327
Regional centers	337,161	21,521	358,682
State hospital	409,223	8,352	417,575
Developmental center	136,633	277,405	414,038
Protection and advocacy project	16,263		16,263
Insurance commissioner		19,142	19,142
Industrial commission		30,414	30,414
Labor commissioner	3,905		3,905
Public service commission	18,288	9,848	28,136
Aeronautics commission	358	2,460	2,818
Department of banking and financial institutions		12,962	12,962
Securities commissioner	3,945		3,945
Bank of North Dakota		103,044	103,044
Housing finance agency		21,134	21,134
Job service		257,493	257,493
Workers compensation bureau		60,019	60,019
Highway patrol		114,476	114,476
Radio communications	16,906		16,906
Emergency management	2,536	7,608	10,144
Department of corrections			
Central office	2,818		2,818
Juvenile services	13,226		13,226
Industrial school	32,017	13,722	45,739
State penitentiary	103,271		103,271
Penitentiary industries		12,962	12,962
Parole and probation	21,302	2,367	23,669
Adjutant general	19,123	49,665	68,788
Economic development and finance department	18,542		18,542
Department of agriculture	18,935	4,734	23,669
Milk stabilization board		3,156	3,156
Oilseed council		564	564
Seed department		20,007	20,007
Board of animal health	3,495		3,495
State wheat commission		4,175	4,175
Transportation institute	2,112	3,596	5,708
Extension service	111,639	13,798	125,437
Northern crops institute	2,771	1,132	3,903
Main research center	141,325	60,568	201,893
Dickinson research center	6,317		6,317
Central grassland research center	2,812		2,812
Hettinger research center	3,285	365	3,650
Langdon research center	2,866	506	3,372
North central research center	3,369		3,369
Williston research center	3,653		3,653
Carrington research center	5,828	2,048	7,876
Agronomy seed farm		1,685	1,685
Land reclamation research center		11,344	11,344
Historical society	27,839	1,465	29,304
Council on the arts	1,803	451	2,254
Soil conservation committee	6,156		6,156
Centennial trees commission	564		564
Game and fish department		66,500	66,500
Department of tourism	5,072		5,072
Department of parks and recreation	20,880	1,099	21,979
Water commission	45,630		45,630
Department of transportation			
Transportation operation		567,091	567,091
Fleet services		9,242	9,242
Motor vehicle		27,614	27,614
Total	\$4,141,553	\$2,345,626	\$6,487,179

SECTION 2. STATE EMPLOYEE SALARY INCREASES - EFFECTIVE DATE.

The amounts appropriated in section 1 of this Act are only to be

available to state agencies and institutions beginning on July 1, 1992, to be paid beginning on August 1, 1992, or later, for employee compensation increases of forty dollars per month for each permanent full-time employee.

SECTION 3. AMENDMENT. Section 4-01-21 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

4-01-21. Salary of commissioner of agriculture. The annual salary of the commissioner of agriculture is ~~forty nine~~ fifty one thousand ~~three~~ two hundred ~~seventy two~~ seventy two dollars through June 30, 1992, and ~~fifty one~~ fifty one thousand seven hundred ~~fifty two~~ fifty two dollars thereafter.

SECTION 4. AMENDMENT. Section 15-21-02 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

15-21-02. Salary and traveling expenses. The annual salary of the superintendent of public instruction is ~~fifty~~ fifty two thousand three hundred ~~twelve~~ twelve dollars through June 30, 1992, and ~~fifty two~~ fifty two thousand seven hundred ~~ninety two~~ ninety two dollars thereafter. The superintendent is also entitled to reimbursement for expenses incurred in the discharge of official duties, such expenses to be paid monthly on a warrant prepared by the office of management and budget and signed by the state auditor, upon the filing of an itemized and verified statement of expenses.

SECTION 5. AMENDMENT. Section 26.1-01-09 of the North Dakota Century Code is amended and reenacted as follows:

26.1-01-09. Salary of commissioner. The annual salary of the commissioner is ~~forty nine~~ fifty one thousand ~~three~~ two hundred ~~seventy two~~ seventy two dollars through June 30, 1992, and ~~fifty one~~ fifty one thousand seven hundred ~~fifty two~~ fifty two dollars thereafter.

SECTION 6. AMENDMENT. Section 27-02-02 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

27-02-02. Salaries of judges of supreme court. Each judge of the supreme court ~~shall~~ is entitled to receive an annual salary commencing July 1, 1989, of ~~sixty three~~ sixty three ~~seventy one~~ seventy one thousand ~~eight~~ eight hundred ~~seventy one~~ seventy five dollars except that the through June 30, 1992, and ~~seventy one~~ seventy one thousand five hundred ~~fifty five~~ fifty five dollars thereafter. The chief justice of the supreme court ~~shall~~ is entitled to receive an additional one two thousand seven hundred ~~seventy seven~~ seventy seven dollars per annum and commencing on July 1, 1990, each judge of the supreme court ~~shall~~ is receive an annual salary of ~~sixty eight~~ sixty eight thousand three hundred ~~forty two~~ forty two dollars except that the chief justice of the supreme court ~~shall~~ is receive an additional one thousand ~~nine~~ nine hundred one dollars per annum through June 30, 1992, and ~~two thousand forty~~ two thousand forty dollars per annum thereafter.

SECTION 7. AMENDMENT. Section 27-05-03 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

27-05-03. Salaries and expenses of district judges. Each district judge of this state ~~shall~~ is entitled to receive an annual salary commencing July 1, 1989, of ~~fifty nine~~ sixty five thousand four hundred ~~five~~ ninety dollars and commencing July 1, 1990, an annual salary of ~~sixty two~~ sixty two thousand nine hundred ~~sixty nine~~ sixty nine dollars and his through June 30, 1992, and ~~sixty five~~ sixty five thousand nine hundred ~~seventy~~ seventy dollars thereafter. Each district judge is entitled to actual travel expenses, ~~which shall include~~ including mileage and subsistence while engaged in the discharge of his official duties outside the county in which ~~his~~ the judge's chambers are located. Such salary and expenses shall be payable monthly in the manner provided by law.

Each district judge who has been appointed by the supreme court to act as presiding judge of a judicial district ~~shall~~ is entitled to receive an additional one thousand four hundred eight fifty dollars per annum commencing July 1, 1989, and one thousand four hundred ninety-three dollars per annum commencing July 1, 1990, through June 30, 1992, and one thousand five hundred eighty-one dollars thereafter.

SECTION 8. AMENDMENT. Section 34-05-01.2 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

34-05-01.2. Department of labor to be administered by commissioner of labor. The department of labor must be administered by a commissioner of labor who must be elected for a four-year term on a no-party ballot in the year 1966 and every four years thereafter in the same manner as provided for no-party candidates pursuant to title 16.1. Following his election, the term of the commissioner of labor commences on the same day as the terms for other elected state officials. The commissioner of labor shall possess the same qualifications for office as the commissioner of agriculture. The annual salary of the commissioner of labor is forty-nine thousand three hundred dollars through June 30, 1992, and fifty-one thousand seven hundred fifty-two dollars thereafter.

SECTION 9. AMENDMENT. Section 49-01-05 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

49-01-05. Salary of commissioners. The annual salary of a commissioner is forty-nine thousand three hundred seventy-two dollars through June 30, 1992, and fifty-one thousand seven hundred fifty-two dollars thereafter. All fees received or charged by any such commissioner for any act or service rendered in any official capacity, shall be accounted for and paid over by him monthly to the state treasurer and shall be credited to the general fund of the state.

SECTION 10. AMENDMENT. Section 54-07-04 of the North Dakota Century Code is amended and reenacted as follows:

54-07-04. Salary of governor. The annual salary of the governor is sixty-five thousand six hundred two dollars through June 30, 1992, and sixty-eight thousand two hundred eighty-four dollars thereafter.

SECTION 11. AMENDMENT. Section 54-08-03 of the North Dakota Century Code is amended and reenacted as follows:

54-08-03. Salary of lieutenant governor. The annual salary of the lieutenant governor is up to fifty-three thousand five hundred six dollars through June 30, 1992, and fifty-six thousand one hundred sixteen dollars thereafter.

SECTION 12. AMENDMENT. Section 54-09-05 of the North Dakota Century Code is amended and reenacted as follows:

54-09-05. Salary of secretary of state. The annual salary of the secretary of state is forty-nine thousand three hundred seventy-two dollars through June 30, 1992, and fifty-one thousand seven hundred fifty-two dollars thereafter.

SECTION 13. AMENDMENT. Section 54-10-10 of the North Dakota Century Code is amended and reenacted as follows:

54-10-10. Salary of state auditor. The annual salary of the state auditor is forty-nine thousand three hundred seventy-two dollars through June 30, 1992, and fifty-one thousand seven hundred fifty-two dollars thereafter.

SECTION 14. AMENDMENT. Section 54-11-13 of the North Dakota Century Code is amended and reenacted as follows:

54-11-13. Salary of state treasurer. The annual salary of the state treasurer is ~~forty-nine~~ fifty-one thousand ~~three~~ two hundred ~~seventy-two~~ dollars through June 30, 1992, and fifty-one thousand seven hundred fifty-two dollars thereafter.

SECTION 15. AMENDMENT. Section 54-12-11 of the North Dakota Century Code is amended and reenacted as follows:

54-12-11. Salary of attorney general. The annual salary of the attorney general is ~~fifty-five~~ fifty-seven thousand ~~seven~~ nine hundred ~~twenty-eight~~ dollars through June 30, 1992, and fifty-eight thousand four hundred eight dollars thereafter.

SECTION 16. AMENDMENT. Section 57-01-04 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

57-01-04. Salary. The annual salary of the state tax commissioner is ~~forty-nine~~ fifty-one thousand ~~three~~ two hundred ~~seventy-two~~ dollars through June 30, 1992, and fifty-one thousand seven hundred fifty-two dollars thereafter."

Renumber accordingly

REPORT OF CONFERENCE COMMITTEE

SEN. TALLACKSON MOVED that the conference committee report on Engrossed SB 2594 be adopted, which motion prevailed.

SECOND READING OF SENATE BILL

SB 2594: A BILL for an Act to provide an appropriation for additional compensation to North Dakota state employees; to amend and reenact sections 4-01-21, 15-21-02, 26.1-01-09, 27-02-02, 27-05-03, 34-05-01.2, 49-01-05, 54-07-04, 54-08-03, 54-09-05, 54-10-10, 54-11-13, 54-12-11, and 57-01-04 of the North Dakota Century Code, relating to the salaries of the commissioner of agriculture, superintendent of public instruction, commissioner of insurance, supreme court justices, district court judges, commissioner of labor, public service commissioners, governor, lieutenant governor, secretary of state, state auditor, state treasurer, attorney general, and tax commissioner; 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 42 YEAS, 10 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING

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

NAYS: Bowman; David; DeKrey; Freborg, Hanson, O.; Krauter; Meyer, Moore; Nelson; Solberg

ABSENT AND NOT VOTING: Langley

SB 2594 passed and the title was agreed to.

REPORT OF CONFERENCE COMMITTEE

SB 2282, as reengrossed: Your conference committee (Sens Kelsh, Lindaas, Vosper and Reps. Payne, Jensen, Nowatzki) recommends that the HOUSE

RECEDE from the House amendments on SJ page 1476, amend as follows, and then place on the Seventh order:

That the House recede from its amendments as printed on pages 1575 and 1576 of the House Journal and page 1476 of the Senate Journal, and that Reengrossed Senate Bill No. 2282 be amended as follows:

Page 2, line 3, after "refund" insert "of more than fifty percent"

Page 2, after line 3, insert:

"8. "Voting grower" means a grower who has paid the assessment under this Act, whether or not the grower has applied for a refund."

Page 2, line 18, after the period insert "Each candidate must be supported by a petition bearing the signatures of twenty-five growers from the candidate's district."

Page 2, line 28, after the period insert "Each candidate must be supported by a petition bearing the signatures of twenty-five growers from the candidate's district."

Page 3, line 2, after the period insert "When a member's office is vacant, the council, before beginning the nominating process, shall publish a conspicuous notice of the vacancy, in the official newspaper of every county in the district."

Page 5, line 2, replace "one-half of one percent of the value of a" with "one cent per"

Page 5, line 3, after "state" insert ", until a national corn checkoff is implemented"

Page 6, line 8, after "by" insert "voting"

Page 6, line 9, replace "participating" with "voting"

Page 6, line 12, replace "participating" with "voting"

Page 6, line 17, replace "participating" with "voting" and replace "Participating" with "Voting"

Page 6, line 18, replace "participating" with "voting"

Page 6, line 20, replace "participating" with "voting"

Page 6, line 21, replace "participating" with "voting"

Page 6, line 26, replace "participating" with "voting"

Renumber accordingly

REPORT OF CONFERENCE COMMITTEE

SEN. KELSH MOVED that the conference committee report on Reengrossed SB 2282 be adopted, which motion prevailed on a verification vote.

SECOND READING OF SENATE BILL

SB 2282: A BILL for an Act to provide for a North Dakota corn utilization council; to provide for an assessment on corn production; to provide a penalty; 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 36 YEAS, 16 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: DeKrey; Evanson; Freborg; Goetz; Graba; Heigaard; Heinrich; Holmberg; Ingstad; Jerome; Keller; Kelly; Kelsh; Krauter; Krebsbach; Lindaas; Lindgren; Lips; Marks; Mathern; Mushik; Nalewaja; Nelson; Nething; Peterson; Redlin; Robinson; Satrom; Schoenwald; Stenehjem; Tallackson; Tennefos; Thane; Traynor; Wogsland; Yockim

NAYS: Bowman; David; Dotzenrod; Hanson, E.; Hanson, O.; Kinnoin; Maxson; Meyer; Moore; Mutch; Naaden; O'Connell; Solberg; Streibel; Tomac; Vosper

ABSENT AND NOT VOTING: Langley

SB 2282 passed and the title was agreed to.

REPORT OF CONFERENCE COMMITTEE

HB 1022: Your conference committee (Sens. Robinson, Redlin, Nething and Reps. R. Berg, Dorso, Starke) recommends that the SENATE RECEDE from the Senate amendments on SJ pages 1354-1355 and then place it on the Seventh order.

REPORT OF CONFERENCE COMMITTEE

SEN. TALLACKSON MOVED that the conference committee report on Reengrossed HB 1022 be adopted, which motion prevailed.

SECOND READING OF HOUSE BILL

HB 1022: A BILL for an Act making an appropriation for defraying the expenses of job service North Dakota.

ROLL CALL

The question being on the final passage of the bill, which has been read, the roll was called and there were 50 YEAS, 0 NAYS, 0 EXCUSED, 3 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; Lindaas; Lindgren; Lips; Marks; Mathern; Maxson; Meyer; Moore; Mushik; Mutch; Naaden; Nalewaja; Nelson; Nething; O'Connell; Peterson; Redlin; Robinson; Schoenwald; Solberg; Stenehjem; Streibel; Tallackson; Tennefos; Thane; Tomac; Traynor; Vosper; Yockim

ABSENT AND NOT VOTING: Langley; Satrom; Wogsland

HB 1022 passed and the title was agreed to.

REPORT OF CONFERENCE COMMITTEE

HB 1200: Your conference committee (Sens. Dotzenrod, Tomac, Vosper and Reps. Gorman, A. Olson, B. Anderson) recommends that the SENATE RECEDE from the Senate amendments on SJ pages 982-983, amend as follows, and then place on the Seventh order:

That the Senate recede from its amendments as printed on pages 982 and 983 of the Senate Journal and pages 1154 and 1155 of the House Journal, and that House Bill No. 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 57-57 of the North Dakota Century Code, relating to forest stewardship recognition; to amend and reenact sections 57-57-01, 57-57-02, 57-57-03, 57-57-04, 57-57-05, 57-57-06, 57-57-07, 57-57-08, 57-57-09, and 57-57-10 of the North Dakota Century Code, relating to changing the name of the native woodland tax to the forest stewardship tax, describing property that may qualify for the forest stewardship tax, setting the rate and manner

of collection of the tax, describing the duties of the state forester and board of county commissioners, and providing for hearings; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 57-57-01 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

57-57-01. Definitions. As used in this chapter, unless the context or subject matter otherwise ~~clearly~~ requires:

1. "County designee" means a person or agent under the control of local or state governmental entities who is willing and able to cooperate with the state forester as provided in this chapter.
2. "Forest" means an area of land normally supporting a growth of planted tree cover, woodlands, or windbreaks.
3. "Forest stewardship" means the application of environmental and economic resource management principles to benefit current and future landowners, the public, and the forest resource.
4. "State forester" means the state forester appointed under section 4-19-01 and, where reasonable, the agents and personnel under the state forester's control.
2. "Woodland" means an area of land normally supporting a growth of natural or planted forest cover.

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

57-57-02. Eligibility ~~to be taxed for forest stewardship tax - Application. Beginning January 1, 1974, the~~ This chapter applies in any county in which the county commission has approved by resolution the application of this chapter to all qualifying property within the county. The owner or his agent of the owner, having any tract of contiguous woodland forest which consists of:

1. Natural forest cover ten acres [4.05 hectares] or larger in size;
2. Planted forest cover five acres [2.02 hectares] or larger in size and not less than sixty feet [18.29 meters] in width; or
3. Any combination of natural and planted forest cover ten acres [4.05 hectares] or larger in size,

may file an application with the state forester county commission of the county in which the property is located setting forth a description of property which he that the owner desires to place under the woodland forest stewardship tax and on which land he the owner will practice forestry. If the county commission has approved application of this chapter within the county, the county commission shall forward each application received to the state forester for a determination of whether the property qualifies under this chapter. The state forester shall prescribe the form of such for application blanks and make them available to all interested persons desiring to subject woodlands owned by them to the provisions of this chapter.

SECTION 3. AMENDMENT. Section 57-57-03 of the North Dakota Century Code is amended and reenacted as follows:

57-57-03. Duties of the state forester. Upon the filing receipt of the application provided for in section 57-57-02, the state forester shall examine the land and if he finds that the woodland will produce a forest cover, the state forester shall enter an order approving the application report to the county commission whether the property qualifies for taxation under this chapter. A copy of such order shall the state forester's report must be forwarded to the owner or his the agent of the owner, to the local assessor of any township or district wherein in which the land is located, to the clerk of the township if the township is organized, and to the county auditor. The state forester may appoint a local county designee to assist in the performance of the duties of the state forester under this chapter.

SECTION 4. AMENDMENT. Section 57-57-04 of the North Dakota Century Code is amended and reenacted as follows:

57-57-04. Application and order acceptance to constitute a contract. The application of the owner or his agent of the owner and the filing acceptance of the order application by the state forester shall constitute board of county commissioners constitutes a contract, running with the land, for a period of five years, unless terminated as provided in this chapter. Any order issued on or before March February first of any year shall take takes effect in such that year, but all orders issued after March February first of any year shall take effect the following year. If at the end of five years the contract is not renewed by mutual consent of the owner or agent of the owner and the board of county commissioners, the land shall be is declassified and shall be removed from the provisions of this chapter.

SECTION 5. AMENDMENT. Section 57-57-05 of the North Dakota Century Code is amended and reenacted as follows:

57-57-05. Duty of local assessor. The local assessor in preparing the tax roll shall show the acreage [hectarage] for each owner covered by the provisions of this chapter in a column designated by the words "Woodland Forest Tax Law" or the initials "W.F.L. F.T.L.".

SECTION 6. AMENDMENT. Section 57-57-06 of the North Dakota Century Code is amended and reenacted as follows:

57-57-06. Liability, rate, and collection of the tax - Lieu tax. The owner shall be liable and shall pay to the county treasurer at the same time taxes on other real property are due, a forest stewardship tax computed at a rate determined to be equitable by the county commissioners and the state forester on the land approved for entry under this chapter of fifty cents per acre. Such The tax shall be is a part of the total real property taxes on the land of the owner and subject to collection in the same manner as any other real property taxes. The payment of the taxes herein imposed shall be taxes under this chapter is in lieu of all ad valorem taxes by the state, counties, towns, townships, school districts, and other municipalities upon any property rights attached to such woodlands the forest. It is expressly provided that the woodland forest stewardship tax shall not be is not in lieu of income taxes nor excise taxes upon the sale of forest products or services that may be derived from such woodlands the forest. It is expressly provided that the woodland tax rate shall not exceed the rate as determined by the state and county levy. The county commissioners and the state forester may meet to consider the woodland tax rate at any time deemed suitable or necessary by both parties.

SECTION 7. AMENDMENT. Section 57-57-07 of the North Dakota Century Code is amended and reenacted as follows:

57-57-07. Destructive practices prohibited - Declassification - Management and assistance of the state forester. If woodlands are a forest is cleared, grazed, burned, cut, or otherwise dealt with in a destructive manner as determined by the state forester, they it may be

subject to declassification and return to the regular tax rolls. At the request of the owner or his the agent of the owner, the state forester or the county designee of the state forester may assist in preparing and carrying out a forest management plan for the orderly development of these woodlands each forest. The plan must cover a five-year period and must recognize the individual management objectives of the landowner. The plan must contain written recommendations for managing timber and other associated forest resources. Approval and implementation of the forest management plan must be by mutual consent of the landowner and the state forester.

SECTION 8. AMENDMENT. Section 57-57-08 of the North Dakota Century Code is amended and reenacted as follows:

57-57-08. Report of the state forester - Declassification orders. The state forester shall make an annual written report as to the forest practices of each woodland forest owner or his the agent of the owner covering lands enrolled under this chapter. The report may be based on spot field inspections, landowner questionnaires, or documented observations from local assessors. The report must list the landowners, legal descriptions, and acreages which are eligible to receive continued tax benefits. A copy of the report must be forwarded to the county auditor by March first of each year. If the state forester finds that the owner or his the agent of the owner has not complied with the law, or if the land is no longer used for forestry purposes, he the state forester shall issue an order removing the land from the woodland forest stewardship tax law classification. Any declassification order issued on or before March February first of any year shall take takes effect in such that year. A copy of the declassification order shall must be sent to the owner or his the agent of the owner, to the local assessor of the township or district wherein in which the land is located, to the clerk of the township if the township is organized, and to the county auditor. Any order issued under this section shall be is final unless set aside pursuant to the provisions of section 57-57-09.

SECTION 9. AMENDMENT. Section 57-57-09 of the North Dakota Century Code is amended and reenacted as follows:

57-57-09. Public hearing by petition - Hearing board - Presiding officer. The owner or his agent of the owner, board of township supervisors, or board of county commissioners may petition the state forester for a public hearing to take testimony and hear evidence on whether lands shall be entered or continued under this chapter. Upon filing of such the petition, the state forester shall set such the matter for public hearing at such a time as he the state forester sees fit in the county wherein in which the land is located, but not later than ninety days from the date of the filing of the petition. The state forester, the county auditor, and the local assessor of the township wherein in which the lands are located shall constitute the hearing board. The state forester shall be is the presiding officer of the hearing and shall give thirty days' written notice of the hearing to the owner or his agent of the owner, board of township supervisors, and the board of county commissioners. Such The hearing may be deferred not more than sixty days after notice to the parties involved.

SECTION 10. AMENDMENT. Section 57-57-10 of the North Dakota Century Code is amended and reenacted as follows:

57-57-10. Procedural rules for hearing - Decision - Appeal. A written record shall must be made of all testimony offered at any hearing before shall the hearing board. A transcript of the testimony taken by or before the hearing board shall must be furnished to any party upon written request therefor. After hearing all the testimony and after making such any independent investigations as they deem it deems necessary, the hearing board shall make their its findings of fact and the decision of the majority will rule. The state forester as the

presiding officer of the hearing board ~~will~~ shall make and enter this order accordingly within thirty days after the final adjournment of the hearing. An appeal may be taken to the district court of the county ~~wherein in which~~ the land in question is located within thirty days after notice ~~thereof~~ is given to each of the parties to the proceeding. Only final orders or decisions substantially affecting the rights of parties ~~shall be~~ are appealable. A procedural order made by the state forester or the hearing board during the hearing ~~shall~~ is not be deemed a final order nor an order affecting a substantial right. ~~Such~~ An appeal ~~shall~~ may be taken pursuant to the provisions of section 28-32-15. An appeal from a determination or decision of the hearing board ~~shall~~ does not stay the enforcement of ~~such~~ the determination or decision unless the court to which the appeal is taken, upon application and after a hearing, ~~shall order~~ orders a stay. The court may impose such terms and conditions for a stay of the enforcement of the determination or decision appealed as it ~~shall deem~~ deems proper.

SECTION 11. A new section to chapter 57-57 of the North Dakota Century Code is created and enacted as follows:

Forest stewardship recognition. Recognition is appropriate for landowners and organizations demonstrating special forest stewardship efforts. The state forester may establish stewardship requirements, standards, and awards for such a recognition program.

SECTION 12. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 1990."

Renumber accordingly

REPORT OF CONFERENCE COMMITTEE

SEN. DOTZENROD MOVED that the conference committee report on Reengrossed HB 1200 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 57-57 of the North Dakota Century Code, relating to forest stewardship recognition; to amend and reenact sections 57-57-01, 57-57-02, 57-57-03, 57-57-04, 57-57-05, 57-57-06, 57-57-07, 57-57-08, 57-57-09, and 57-57-10 of the North Dakota Century Code, relating to changing the name of the native woodland tax to the forest stewardship tax, describing property that may qualify for the forest stewardship tax, setting the rate and manner of collection of the tax, describing the duties of the state forester and board of county commissioners, and providing for hearings; 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 51 YEAS, 0 NAYS, 0 EXCUSED, 2 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; Lindaas; Lindgren; Lips; Marks; Mathern; Maxson; Meyer; Moore; Mushik; Mutch; Naaden; Nalawaja; Nelson; O'Connell; Peterson; Redlin; Robinson; Satrom; Schoenwald; Solberg; Stenehjem; Streibel; Tallackson; Tennefos; Thane; Tomac; Traynor; Vosper; Wogsland; Yockim

ABSENT AND NOT VOTING: Langley; Nething

HB 1200 passed and the title was agreed to.

REPORT OF CONFERENCE COMMITTEE

HB 1031, as reengrossed: Your conference committee (Sens. Mushik, Thane, Mathern and Reps. Jensen, Dalrymple, Stofferahn) recommends that the SENATE RECEDE from the Senate amendments on SJ pages 1379-1380, further amend as follows, and then place on the Seventh order:

That the Senate recede from its amendments as printed on page 1379 and 1380 of the Senate Journal, and that Reengrossed House Bill No. 1031 be amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act relating to a property cost reimbursement study and property cost reimbursement to certain nursing homes; to provide an appropriation; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Property reimbursement study - Reimbursement in certain cases.

1. The department of human services shall study the medical assistance property cost reimbursement system for the nursing home industry in the state of North Dakota. The department shall establish a nine-member advisory committee for the study consisting of departmental staff, at least three representatives of the long-term care industry, and three legislative members appointed by the chairman of the legislative council. The department may expend funds to engage a qualified consulting firm to assist in the study and shall from time to time report on the progress of the study and any findings to the legislative council or a committee designated by the council. The legislative council shall report any findings and recommendations, together with any legislation required to implement the recommendations, to the fifty-third legislative assembly.
2. The department shall reimburse nursing home providers that are vendors in the medical assistance program for the use of real estate and depreciable equipment that was purchased by the nursing home provider after July 1, 1985, and before January 1, 1991, based on property costs created by good faith, arm's length purchase agreements. For purposes of this Act, "property costs" means property taxes including special assessments, lease and rental costs of personal property and reasonable legal expense, all to the extent allowable under chapter 50-24.4 and rules adopted by the department; interest expense allowable under rules adopted by the department without the application of subdivision f of subsection 1 of section 75-02-06-04 of the North Dakota Administrative Code; personal property depreciation based upon purchase price paid by the buyer; and real property depreciation based upon current reproduction cost of those assets depreciated on a straight-line basis over their useful lives to the date of acquisition by the buyer and increased by one-half of the percentage increase in the consumer price index for all urban consumers (United States city average) from the date of acquisition by the seller to the date of acquisition by the buyer, or the purchase price paid by the buyer, whichever is lower.

SECTION 2. APPROPRIATION. There is hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$75,000, or so much thereof as may be necessary, and \$75,000 from special funds, to the department of human services for the purpose of undertaking the study provided for in section 1 of this Act. for the period beginning July 1, 1991, and ending June 30, 1993.

SECTION 3. Property cost reimbursement. The department of human services shall provide the additional property cost reimbursement required by this Act from funds appropriated to the department in Senate Bill No. 2002 of the fifty-second legislative assembly. It is the intent of the legislative assembly that the \$783,345, of which \$184,086 is from the general fund, necessary to fund the additional reimbursement required by this Act, will be available through the department's recapture of depreciation related to the sales between the Benedictine health systems and Beverly enterprises.

SECTION 4. EXPIRATION DATE. This Act is effective through June 30, 1993, and after that date is ineffective."

Renumber accordingly

REPORT OF CONFERENCE COMMITTEE

SEN. TALLACKSON MOVED that the conference committee report on Reengrossed HB 1031 be adopted, which motion prevailed.

SECOND READING OF HOUSE BILL

HB 1031: A BILL for an Act relating to a property cost reimbursement study and property cost reimbursement to certain nursing homes; to provide an appropriation; and to provide an expiration date.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 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; 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; Tomac; Traynor; Vosper; Wogsland; Yockim

ABSENT AND NOT VOTING: Langley

HB 1031 passed and the title was agreed to.

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

MR. PRESIDENT: The House has not adopted the conference committee report on SB 2005. The Speaker has appointed as a new conference committee to act with a like committee from the Senate on:

SB 2005: Reps. Howard; Wentz; DeMers

REPORT OF CONFERENCE COMMITTEE

SCR 4073: Your conference committee (Sens. Satrom, Kelsh, Naaden and Reps. Trautman, Wardner, Scherber) recommends that the SENATE ACCEDE to the House amendments on SJ page 1506, further amend as follows, and then place on the Seventh order:

Page 1, after line 23, insert "Assistant Appropriations Committee Clerk"

Renumber accordingly

REPORT OF CONFERENCE COMMITTEE

SEN. SATROM MOVED that the conference committee report on Reengrossed SCR 4073 be adopted, which motion prevailed.

SECOND READING OF SENATE CONCURRENT RESOLUTION

SCR 4073: A concurrent resolution authorizing the retention of certain employees of the Senate and House 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 amended resolution, which has been read, the roll was called and there were 51 YEAS, 0 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

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

ABSENT AND NOT VOTING: Langley; Meyer

SCR 4073 was declared adopted.

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

MR. SPEAKER: The Senate has adopted the conference committee report on HB 1022, HB 1031, HB 1200, and HB 1534 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 HB 1013.

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

MR. SPEAKER: The Senate has adopted the conference committee report on SB 2020, SB 2234, SB 2282, and SB 2324 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 1021, subsequently passed the same and the emergency clause carried.

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

MR. PRESIDENT: The House has adopted the conference committee report on HB 1018, HB 1517, and HB 1597 and subsequently passed the same.

MOTIONS

SEN. WOGSLAND MOVED that the absent members 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 stand adjourned until 8:00 a.m., Wednesday, April 10, 1991, which motion prevailed.

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

MARION HOUN, Secretary