

JOURNAL OF THE SENATE

Fifty-third Legislative Assembly

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Bismarck, April 19, 1993

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

The prayer was offered by Senator O'Connell.

The roll was called and all members were present except Senators Keller, Marks, Mutch, and Tomac.

A quorum was declared by the President.

MOTION

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

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

SIGNING OF BILLS AND RESOLUTIONS

The President signed the following enrolled bills and resolution: SB 2155, SB 2252, SB 2394, SB 2440, SB 2490, SB 2524, SCR 4031.

MESSAGE TO THE HOUSE FROM THE SENATE (CAROL SIEGERT, SECRETARY)

MR. SPEAKER: The President has signed and your signature is respectfully requested on: SB 2155, SB 2252, SB 2394, SB 2440, SB 2490, SB 2524, SCR 4031.

MESSAGE TO THE SENATE FROM THE HOUSE (ROY GILBREATH, CHIEF CLERK)

MADAM PRESIDENT: The House has failed to pass: SB 2541.

REPORT OF CONFERENCE COMMITTEE

SB 2014, as engrossed: Your conference committee (Sens. Redlin, Lindaas, Goetz and Reps. Gerntholz, Howard, Laughlin) recommends that the **HOUSE RECEDE** from the House amendments on SJ pages 1244-1246, adopt amendments as follows, and place SB 2014 on the Seventh order:

That the House recede from its amendments as printed on pages 1244-1246 of the Senate Journal and pages 1379-1381 of the House Journal and that Engrossed Senate Bill No. 2014 be amended as follows:

Page 1, line 13, replace "73,794,462" with "72,420,188"

Page 1, line 14, replace "3,622,100" with "3,197,140"

Page 1, line 15, replace "56,564,582" with "56,080,839"

Page 1, line 16, replace "6,894,408" with "6,494,408"

Page 1, line 17, replace "330,561,200" with "269,061,200"

Page 1, line 21, replace "485,558,452" with "421,375,475"

Page 2, line 3, replace "2,399,384" with "2,389,372"

Page 2, line 4, replace "755,382" with "728,944"

Page 2, line 7, replace "5,778,262" with "5,741,812"

Page 2, line 10, replace "1,523,024" with "1,509,780"

Page 2, line 11, replace "210,000" with "202,650"

Page 2, line 12, replace "8,000,152" with "7,550,152"

Page 2, line 13, replace "10,535,600" with "10,135,600"

Page 2, line 14, replace "20,268,776" with "19,398,182"

Page 2, line 15, replace "511,605,490" with "446,515,469"

Page 2, after line 24, insert:

"SECTION 4. INDIRECT COST ALLOCATION PAYMENTS - CONTINGENCY.

The office of management and budget may charge the department of transportation for indirect costs for the biennium beginning July 1, 1993, and ending June 30, 1995, pursuant to section 54-44.1-15 only if the fifty-third legislative assembly approves a motor vehicle fuel tax increase or a contingent motor vehicle fuel tax increase."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

DEPARTMENT 802 - DOT-TRANSPORTATION OPERATION

CONFERENCE COMMITTEE - This amendment makes the following changes:

The salaries and wages line item is decreased by \$874,274, \$183,389 of which is federal funds to reflect the state employee salary increase provisions of House Bill No. 1018.

The salaries and wages line item is reduced by \$500,000 from the highway fund relating to a reduction of five FTE undesignated positions and projected position vacancies during the 1993-95 biennium.

The information services line item is reduced by \$424,960 from the highway fund in accordance with provisions of House Bill No. 1018.

The operating expenses line item is increased by \$116,257 from the highway fund for indirect cost allocation payments to the Office of Management and Budget. This change provides a total of \$483,235 from the highway fund for indirect cost allocation payments. A section is added providing that the Office of Management and Budget may charge indirect costs to the Department of Transportation only if a motor vehicle fuel tax increase or a contingent motor vehicle fuel tax increase is approved by the 1993 Legislative Assembly.

The operating expenses line item is reduced by \$600,000, \$400,000 of which is federal funds. Of the reduction, \$100,000 relates to postage and \$500,000, \$400,000 of which is federal funds, relates to consulting engineers.

The equipment line item is reduced by \$400,000 from the highway fund to delay certain equipment purchases until the 1995-97 biennium.

The capital improvements line item is decreased by \$2,000,000 from the highway fund for highway maintenance.

The capital improvements line item is also reduced by \$59,500,000, \$47,600,000 of which is federal funds, relating to highway construction projects. Funding for highway construction projects is provided at a level that is \$12,000,000 more than recommended by Governor Schafer, \$9,600,000 of this amount is federal funds. It is the intent of the Legislative Assembly that this reduction of federal and state funds relates to the additional motor vehicle fuel tax and federal fund collections which may become

available pursuant to the provisions of House Bill No. 1399. It is not the intent of this amendment to limit the Emergency Commission's authority to accept and approve the expenditure of federal funds because of unanticipated state or local matching funds that may become available.

Funding provided for highway construction projects reflected in this amendment is based on estimated funding available pursuant to 1991-93 motor vehicle fuel tax rates. House Bill No. 1399, which includes an increase of motor vehicle fuel tax rates of up to three cents based on federal highway construction funds available to North Dakota for the 1993-95 biennium, also contains an appropriation of up to \$65,500,000 for additional highway construction projects. A one cent motor vehicle fuel tax increase is estimated to generate \$7.5 million to the highway tax distribution fund for the first biennium the increase is effective.

In total, this amendment reduces funding for DOT-Transportation Operation by \$64,182,977, \$48,183,389 of which is federal funds and \$15,999,588 of which is from the highway fund. Authorized FTE positions are reduced by five from Governor Schafer's recommendation and the Senate version, from 1,013.73 to 1,008.73 FTE positions. Governor Sinner recommended 1,021.73 FTE positions, 13 FTE positions more than the 1,008.73 authorized by the provisions of this amendment.

DEPARTMENT 803 - DOT-MOTOR VEHICLE

CONFERENCE COMMITTEE - The salaries and wages line item is decreased by \$10,012 from special funds to reflect the state employee salary increase provisions of House Bill No. 1018.

The information services line item is reduced by \$26,438 from special funds in accordance with provisions of House Bill No. 1018.

In total, this amendment reduces funding for DOT-Motor Vehicle by \$36,450 from special funds.

DEPARTMENT 804 - DOT-FLEET SERVICES

CONFERENCE COMMITTEE - The salaries and wages line item is decreased by \$13,244 from special funds to reflect the state employee salary increase provisions of House Bill No. 1018.

The information services line item is reduced by \$7,350 of special funds in accordance with provisions of House Bill No. 1018.

The operating expenses line item is decreased by \$450,000 from special funds to reflect a reduction in buildings and vehicle maintenance supplies provided for the 1993-95 biennium.

The equipment line item is decreased by \$400,000 from the highway fund to reflect a reduction of funding provided for vehicle purchases during the 1993-95 biennium.

In total, this amendment reduces funding for DOT-Fleet Services by \$870,594 from special funds.

Engrossed SB 2014 was placed on the Seventh order of business on the calendar.

REPORT OF CONFERENCE COMMITTEE

SEN. REDLIN MOVED that the conference committee report on Engrossed SB 2014 be adopted, which motion prevailed.

Engrossed SB 2014, as amended, was placed on the Eleventh order.

SECOND READING OF SENATE BILL

SB 2014: A BILL for an Act making an appropriation for defraying the expenses of the various divisions under the supervision of the director of the department of transportation; and to provide a statement of legislative intent.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 47 YEAS, 0 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

YEAS: Andrist; Bowman; DeMers; Dotzenrod; Evanson; Freborg; Goetz; Graba; Grindberg; Heinrich; Holmberg; Jerome; Keller; Kelly; Kelsh; Kinnoin; Krauter; Krebsbach; Langley; Lindaas; Lindgren; Lips; Marks; Mathern; Maxson; Mushik; Nalewaja; Nelson; Nething; O'Connell; Redlin; Robinson; Sand; Scherber; Schoenwald; Solberg; Stenehjem, B.; Stenehjem, W.; Streibel; Tallackson; Tennefos; Thane; Tomac; Traynor; Urlacher; Wogsland; Yockim

ABSENT AND NOT VOTING: Mutch; Naaden

SB 2014 passed and the title was agreed to.

MOTION

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

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

SIGNING OF BILLS AND RESOLUTIONS

The President signed the following enrolled bill and resolution: SB 2540, SCR 4075.

MESSAGE TO THE HOUSE FROM THE SENATE (CAROL SIEGERT, SECRETARY)

MR. SPEAKER: The President has signed and your signature is respectfully requested on: SB 2540, SCR 4075.

SIGNING OF BILLS AND RESOLUTIONS

The President signed the following enrolled bills: HB 1028, HB 1158, HB 1179, HB 1222, HB 1256, HB 1467.

MESSAGE TO THE HOUSE FROM THE SENATE (CAROL SIEGERT, SECRETARY)

MR. SPEAKER: The President has signed: HB 1028, HB 1158, HB 1179, HB 1222, HB 1256, HB 1467.

MESSAGE TO THE SENATE FROM THE HOUSE (ROY GILBREATH, CHIEF CLERK)

MADAM PRESIDENT: The Speaker announced that Rep. Hausauer will replace Rep. Gates on the conference committee on SB 2022 and that Rep. Dorso will replace Rep. Gorman on the conference committee on HB 1017.

MESSAGE TO THE SENATE FROM THE HOUSE (ROY GILBREATH, CHIEF CLERK)

MADAM PRESIDENT: The House has not adopted the conference committee report on SB 2174.

MESSAGE TO THE SENATE FROM THE HOUSE (ROY GILBREATH, CHIEF CLERK)

MADAM PRESIDENT: The Speaker has signed and your signature is respectfully requested on: HB 1515.

MESSAGE TO THE SENATE FROM THE HOUSE (ROY GILBREATH, CHIEF CLERK)

MADAM PRESIDENT: The Speaker has signed: SB 2155, SB 2252, SB 2394, SB 2440, SB 2490, SB 2524, SB 2540, SCR 4031, SCR 4075.

REPORT OF STANDING COMMITTEE

HCR 3072: Judiciary Committee (Sen. Maxson, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HCR 3072 was placed on the Sixth order on the calendar.

Page 1, line 2, after "rules" insert "and the effects of Indian gaming on charitable gaming in this state"

Page 1, line 9, after the semicolon insert "and"

Page 1, after line 9, insert:

"WHEREAS, the federal Indian Gaming Regulatory Act has resulted in an increase in the types of gaming permitted on tribal lands in this state; and

WHEREAS, the impact of Indian gaming operations on the charitable gaming industry is unknown;"

Page 1, line 14, after "appropriate" insert "and the effects of Indian gaming on charitable gaming in this state"

Renumber accordingly

CONSIDERATION OF AMENDMENTS

HCR 3072: SEN. TRAYNOR (Judiciary Committee) MOVED that the amendments be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

SECOND READING OF HOUSE CONCURRENT RESOLUTION

HCR 3072: A concurrent resolution directing the Legislative Council to study charitable gaming laws and rules and the effects of Indian gaming on charitable gaming in this state.

The question being on the final adoption of the amended resolution, which has been read.

HCR 3072 was declared adopted and the title was agreed to.

MOTION

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

MOTION

SEN. MATHERN MOVED that the Senate be on the Fourth, Fifth, Seventh, Twelfth, and Sixteenth orders of business and at the conclusion of those orders, the Senate stand adjourned until 8:00 a.m., Tuesday, April 20, 1993, which motion prevailed.

REPORT OF CONFERENCE COMMITTEE

SB 2017, as engrossed: Your conference committee (Sens. Yockim, Lindaas, Goetz and Reps. Gorman, Wald, Nichols) recommends that the **HOUSE RECEDE** from the House amendments on SJ pages 1173-1176, adopt amendments as follows, and place SB 2017 on the Seventh order:

That the House recede from its amendments as printed on pages 1173-1176 of the Senate Journal and pages 1304-1306 of the House Journal and that Engrossed Senate Bill No. 2017 be amended as follows:

Page 1, line 3, after "commission" insert "; to provide for a limit on state building authority lease payments; to repeal sections 54-17.2-21 and

54-17.2-22 of the North Dakota Century Code, relating to the capital construction fund; and to provide an effective date"

Page 1, line 14, replace "4,822,705" with "4,725,310"

Page 1, line 15, replace "156,883" with "147,694"

Page 1, line 16, replace "1,329,149" with "1,409,149"

Page 1, line 19, replace "Bond" with "Lease" and replace "12,840,077" with "12,656,195"

Page 1, line 21, replace "29,369,343" with "29,158,877"

Page 2, line 1, replace "24,233,000" with "12,256,475"

Page 2, line 2, replace "5,136,343" with "16,902,402"

Page 2, line 5, replace "11,723,884" with "11,566,746"

Page 2, line 6, replace "4,371,350" with "4,136,567"

Page 2, line 7, replace "4,675,000" with "4,733,730"

Page 2, line 11, replace "22,575,234" with "22,242,043"

Page 2, line 15, replace "6,878,083" with "6,879,949"

Page 2, line 18, replace "18,442,671" with "18,444,537"

Page 2, line 21, replace "2,747,412" with "2,713,113"

Page 2, line 22, replace "90,316" with "88,715"

Page 2, line 23, replace "865,245" with "874,081"

Page 2, line 27, replace "37,069,333" with "37,042,269"

Page 2, line 28, replace "5,136,343" with "16,902,402"

Page 2, line 29, replace "102,320,238" with "89,985,324"

Page 3, line 1, replace "107,456,581" with "106,887,726"

Page 3, line 14, replace "APPROPRIATION" with "TRANSFER"

Page 3, line 20, replace "APPROPRIATION" with "TRANSFER"

Page 3, line 26, replace "APPROPRIATION" with "TRANSFER"

Page 4, line 3, replace "APPROPRIATION" with "TRANSFER"

Page 4, line 11, replace "\$47,832" with "\$51,232"

Page 5, line 9, replace "\$12,840,077" with "\$12,656,195" and replace "bond" with "lease"

Page 5, line 13, replace "Capital construction fund's portion of sales, use and" with "State general fund" and replace "11,956,840" with "11,781,626"

Page 5, remove line 14

Page 5, line 16, replace "272,829" with "264,161"

Page 5, line 17, replace "12,840,077" with "12,656,195"

Page 5, remove lines 18 through 23

Page 6, after line 28, insert:

"SECTION 17. TRANSFER. The state treasurer shall transfer the unobligated balance in the capital construction fund to the state general fund on July 1, 1993. Upon payment of all obligations, the state treasurer shall transfer any balance to the state general fund. After June 30, 1993, the state treasurer shall deposit in the state general fund any moneys that would otherwise be deposited in the capital construction fund.

SECTION 18. State building authority lease payments - Limitation. The amount of lease payments for a biennium associated with capital construction projects financed by the industrial commission acting as the state building authority may not exceed the amount equal to a portion of sales, use, and motor vehicle excise tax collections equal to twelve and one-half percent of an amount, determined by multiplying the quotient of one percent divided by the general sales tax rate that was in effect when the taxes were collected, times the net sales, use, and motor vehicle excise tax collections under chapters 57-39.2, 57-40.2, and 57-40.3.

SECTION 19. REPEAL. Sections 54-17.2-21 and 54-17.2-22 of the North Dakota Century Code are repealed.

SECTION 20. EFFECTIVE DATE. Sections 17 and 19 of this Act are effective for all sales, use, and motor vehicle excise tax revenues received by the state treasurer for deposit after June 30, 1993.

SECTION 21. LEGISLATIVE INTENT. It is the intent of the fifty-third legislative assembly that if 1993 House Bill No. 1240 is passed by the legislative assembly, the industrial commission shall make appropriate staffing adjustments in the housing finance agency during the 1993-95 biennium based on workloads and consistent with personnel considerations and anticipated income. If 1993 House Bill No. 1240 passes, the industrial commission is to report to the first 1993-94 interim budget section meeting on the changes in the housing finance agency."

ReNUMBER accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

DEPARTMENT 405 - INDUSTRIAL COMMISSION

CONFERENCE COMMITTEE - The salaries and wages line item is decreased by \$97,395, of which \$87,656 is from the general fund and \$9,739 from other funds, to reflect the \$60 per month salary increase plan in accordance with the provisions of House Bill No. 1018.

The operating expenses line item is increased by \$80,000 from the general fund to ensure funding of the geological information system. The geological information system was to be funded from federal funding that may not be available.

The information services line item is reduced by \$9,189, of which \$7,911 is from the general fund and \$1,278 from other funds, in accordance with the provisions of House Bill No. 1018.

The general fund appropriation is increased by \$11,781,626 and other funds are decreased by \$11,965,508 to provide the bond payments being from the general fund rather than the capital construction fund and payments based on

the most recent payment schedule. Also, a section is added transferring the balance of the capital construction fund to the state general fund, and a section is added repealing the sections of the North Dakota Century Code that provided for the capital construction fund. A new section is added providing that the Building Authority lease payments for a biennium are not to exceed the amount to which 12.5 percent of a one percent sales, use, and motor vehicle excise tax is equal. Presently 12.5 percent of a one percent sales, use, and motor vehicle tax is approximately \$14.8 million.

DEPARTMENT 471 - BANK OF NORTH DAKOTA

CONFERENCE COMMITTEE - The salaries and wages line item is decreased by \$157,138 from other funds to reflect the \$60 per month salary increase plan in accordance with the provisions of House Bill No. 1018.

The operating expenses line item is increased by \$58,730 from other funds for indirect cost allocation payments to the Office of Management and Budget.

The information services line item is reduced by \$234,783 from funds in accordance with the provisions of House Bill No. 1018.

DEPARTMENT 473 - HOUSING FINANCE AGENCY

CONFERENCE COMMITTEE - The salaries and wages line item is decreased by \$34,299 from other funds to reflect the \$60 per month salary increase plan in accordance with the provisions of House Bill No. 1018.

The information services line item is decreased by \$1,601 from other funds in accordance with the provisions of House Bill No. 1018.

The operating expenses line item is increased by \$8,836 from other funds for indirect cost allocation payments to the Office of Management and Budget.

A section of legislative intent is added stating it is the intent of the Legislative Assembly that if 1993 House Bill No. 1240 passes relating to local housing authorities, the Industrial Commission shall make the appropriate staffing changes in the Housing Finance Agency based on agency workload and income.

DEPARTMENT 475 - MILL AND ELEVATOR

CONFERENCE COMMITTEE - The operating expenses line item is increased by \$1,866 from other funds for indirect cost allocation payments to the Office of Management and Budget.

The total amendments to Engrossed Senate Bill No. 2017 increase the general fund appropriation by \$11,766,059, decrease other funds by \$12,334,914, and decrease all funds by \$568,855.

Engrossed SB 2017 was placed on the Seventh order of business on the calendar.

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

CAROL SIEGERT, Secretary