

**JOURNAL OF THE SENATE**

**Fifty-third Legislative Assembly**

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Bismarck, April 20, 1993

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

The prayer was offered by Senator Marks.

The roll was called and all members were present except Senators Dotzenrod, Naaden, 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.

**DELIVERY OF ENROLLED BILLS AND RESOLUTIONS**

The following bills were delivered to the Governor for his approval at the hour of 8:02 a.m., April 20, 1993: SB 2155, SB 2252, SB 2394, SB 2440, SB 2490, SB 2524, SB 2540.

**DELIVERY OF ENROLLED BILLS AND RESOLUTIONS**

The following resolutions were delivered to the Secretary of State for his filing at the hour of 8:08 a.m., April 20, 1993: SCR 4031, SCR 4075.

**SIGNING OF BILLS AND RESOLUTIONS**

The President signed the following enrolled bill: HB 1515.

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

**MR. SPEAKER:** The President has signed: HB 1515.

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

**MR. SPEAKER:** The Senate has amended and subsequently passed: HCR 3072.

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

**MR. SPEAKER:** The Senate has adopted the conference committee report and subsequently passed: SB 2014.

**REPORT OF CONFERENCE COMMITTEE**

**SEN. YOCKIM MOVED** that the conference committee report on Engrossed SB 2017 be adopted.

**REQUEST**

**SEN. KELLY REQUESTED** a recorded roll call vote on the motion to adopt the conference committee report on SB 2017, which request was granted.

**ROLL CALL**

The question being on the motion to adopt the conference committee report on SB 2017, the roll was called and there were 32 YEAS, 17 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bowman; Evanson; Freborg; Goetz; Graba; Grindberg; Holmberg; Jerome; Krebsbach; Langley; Lindaas; Lindgren; Lips; Mutch; Naaden; Nalewaja; Nelson; Nething; Redlin; Robinson; Sand; Solberg; Stenehjem, B.; Stenehjem, W.; Streibel; Tallackson; Thane; Traynor; Urlacher; Wogsland; Yockim

**NAYS:** DeMers; Dotzenrod; Heinrich; Keller; Kelly; Kelsh; Kinnoin; Krauter; Marks; Mathern; Maxson; Mushik; O'Connell; Scherber; Schoenwald; Tennefos; Tomac

The conference committee report on SB 2017 was adopted.

Engrossed SB 2017, as amended, was placed on the Eleventh order.

#### SECOND READING OF SENATE BILL

**SB 2017:** A BILL for an Act to provide an appropriation for defraying the expenses of the state industrial commission and the agencies under the management of the industrial commission; 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.

#### ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 39 YEAS, 10 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bowman; Dotzenrod; Evanson; Freborg; Goetz; Graba; Grindberg; Heinrich; Holmberg; Jerome; Kelsh; Kinnoin; Krebsbach; Langley; Lindaas; Lindgren; Lips; Marks; Mathern; Mutch; Naaden; Nalewaja; Nelson; Nething; Redlin; Robinson; Sand; Scherber; Solberg; Stenehjem, B.; Stenehjem, W.; Streibel; Tallackson; Thane; Traynor; Urlacher; Wogsland; Yockim

**NAYS:** DeMers; Keller; Kelly; Krauter; Maxson; Mushik; O'Connell; Schoenwald; Tennefos; Tomac

SB 2017 passed and the title was agreed to.

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#### MOTION

**SEN. WOGSLAND MOVED** that the Senate resolve itself into a Confirmation Session, which motion prevailed.

#### REPORT OF SELECT COMMITTEE

**MADAM PRESIDENT:** Your Select Committee (Sen. Keller, Chairman) appointed to consider the nomination for the State Gaming Commission, so advise and consent to the appointment of: James Wang.

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

#### ROLL CALL

The question being "will the Senate advise and consent to the nomination of James Wang for the State Gaming Commission" the roll was called and there were 49 YEAS, 0 NAYS, 0 EXCUSED, 0 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; Mutch; Naaden; Nalewaja; Nelson; Nething; O'Connell; Redlin; Robinson; Sand; Scherber; Schoenwald; Solberg; Stenehjem, B.; Stenehjem, W.; Streibel; Tallackson; Tennefos; Thane; Tomac; Traynor; Urlacher; Wogsland; Yockim

The Senate advises and consents to the nomination of James Wang for the State Gaming Commission.

#### MOTION

**SEN. WOGSLAND MOVED** that the Confirmation Session be dissolved, which motion prevailed.

**ANNOUNCEMENT BY THE PRESIDENT**

**PRESIDENT MYRDAL ANNOUNCED** that Sen. Tallackson will replace Sen. Yockim on the conference committee on HB 1017.

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

**MR. SPEAKER:** The President announced that Sen. Tallackson will replace Sen. Yockim on the conference committee on HB 1017.

**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.

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

**MADAM PRESIDENT:** The House has passed and your favorable consideration is requested on: HB 1516.

**COMMUNICATION FROM GOVERNOR EDWARD T. SCHAFER**

April 20, 1993

This is to inform you that on April 19, 1993, I signed the following: SB 2083, SB 2088, SB 2096, SB 2101, and SB 2277.

**COMMUNICATION FROM GOVERNOR EDWARD T. SCHAFER**

April 20, 1993

This is to inform you that on April 20, 1993, I signed the following: SB 2028, SB 2227, SB 2295, and SB 2367.

**APPOINTMENTS BY THE PRESIDENT OF THE SENATE**Legislative Council

Senator Holmberg  
 Senator Mushik  
 Senator Robinson  
 Senator Streibel  
 Senator Kelsh

Capitol Grounds Planning Commission

Senator Krauter  
 Senator Mathern  
 Senator Tennefos

Multistate Tax Compact Advisory Committee

Senator Tennefos  
 Senator Tomac

Medical Center Advisory Council

Senator Kelly

Regulatory Reform Review Commission

Senator Nething  
 Senator Redlin

Comprehensive Health Association of North Dakota Board

Senator DeMers

Education Commission of the States

Senator Heinrich

**REPORT OF DELAYED BILLS COMMITTEE**

**MADAM PRESIDENT:** Your Delayed Bills Committee (Sen. Schoenwald, Chairman) has examined and has cast a vote of 3 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING in favor of accepting a bill for an Act to provide an appropriation for defraying the expenses of the North Dakota university system and the various institutions of higher learning under the supervision of the state board of

higher education and to provide an exemption to the provisions of section 54-44.1-11.

The bill will be SB 2543.

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

**REPORT OF CONFERENCE COMMITTEE**

SB 2020, as engrossed: Your conference committee (Sens. Yockim, Lindaas, Goetz and Reps. Clayburgh, Carlisle, Kroeber) recommends that the HOUSE RECEDE from the House amendments on SJ pages 1084-1085, adopt amendments as follows, and place SB 2020 on the Seventh order:

That the House recede from its amendments as printed on pages 1084-1085 of the Senate Journal and pages 1240-1241 of the House Journal and that Engrossed Senate Bill No. 2020 be amended as follows:

Page 1, line 11, replace "519,676" with "508,840"

Page 1, line 12, replace "19,000" with "18,580"

Page 1, line 15, replace "622,037" with "610,781"

Page 1, line 16, replace "391,093" with "380,699"

Page 1, line 17, replace "230,944" with "230,082"

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

DEPARTMENT 140 - OFFICE OF ADMINISTRATIVE HEARINGS

CONFERENCE COMMITTEE - The salaries and wages line item is decreased by \$10,836, of which \$862 is from the general fund and \$9,974 is from special funds, to reflect the legislative salary increase recommendation as provided for in House Bill No. 1018.

The information services line item is decreased by \$420 from other funds in accordance with the provisions of House Bill No. 1018.

In total, the amendments to the bill decrease the general fund appropriation by \$862, other funds are decreased by \$10,394, and the total appropriation is reduced by \$11,256.

Engrossed SB 2020 was placed on the Seventh order of business on the calendar.

**REPORT OF CONFERENCE COMMITTEE**

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

Engrossed SB 2020, as amended, was placed on the Eleventh order.

**SECOND READING OF SENATE BILL**

SB 2020: A BILL for an Act making an appropriation for defraying the expenses of the office of administrative hearings.

**ROLL CALL**

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 46 YEAS, 0 NAYS, 0 EXCUSED, 3 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; Mushik; Mutch; Nalewaja; Nelson; Nething; O'Connell; Redlin; Robinson; Sand; Scherber; Schoenwald; Solberg; Stenehjem, B.; Stenehjem, W.; Streibel; Tallackson; Tennefos; Thane; Tomac; Traynor; Urlacher; Yockim

**ABSENT AND NOT VOTING:** Maxson; Naaden; Wogsland

SB 2020 passed and the title was agreed to.

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**REPORT OF CONFERENCE COMMITTEE**

**SB 2009, as engrossed:** Your conference committee (Sens. Robinson, Kelly, Thane and Reps. Byerly, DeWitz, Wilkie) recommends that the **HOUSE RECEDE** from the House amendments on SJ pages 992-994, adopt amendments as follows, and place SB 2009 on the Seventh order:

That the House recede from its amendments as printed on pages 992-994 of the Senate Journal and pages 1134-1137 of the House Journal and that Engrossed Senate Bill No. 2009 be amended as follows:

Page 1, line 1, after "to" insert "amend and reenact section 37-18-04 of the North Dakota Century Code, relating to duties of the commissioner of the department of veterans' affairs; and to"

Page 1, line 13, replace "4,149,663" with "4,100,644"

Page 1, line 14, replace "1,560,816" with "1,578,091"

Page 1, line 16, replace "321,851" with "321,851"

Page 1, remove line 17

Page 1, line 18, replace "6,226,898" with "6,191,109"

Page 1, line 19, replace "3,805,722" with "3,781,214"

Page 1, line 20, replace "2,421,176" with "2,409,895"

Page 2, line 2, replace "417,233" with "409,337"

Page 2, line 3, replace "4,000" with "3,960"

Page 2, line 6, replace "100,000" with "100,000"

Page 2, remove line 7

Page 2, line 8, replace "679,664" with "667,728"

Page 2, line 10, replace "411,736" with "399,800"

Page 2, line 11, replace "2,832,912" with "2,809,695"

Page 2, line 12, replace "4,073,650" with "4,049,142"

Page 2, line 13, replace "6,906,562" with "6,858,837"

Page 2, after line 23, insert:

**"SECTION 4. ADDITIONAL VETERANS' POSTWAR TRUST FUND EARNINGS - APPROPRIATION.** Notwithstanding section 37-14-14, earnings of the veterans' postwar trust fund, in addition to the amounts appropriated in section 1 of this Act, are hereby appropriated to the administrative committee on veterans' affairs for veterans' programs administered by the veterans' home and department of veterans' affairs for the biennium

beginning July 1, 1993, and ending June 30, 1995, and may be spent only upon authorization of the emergency commission.

**SECTION 5. AMENDMENT.** Section 37-18-04 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**37-18-04. Duties of commissioner.** It is the duty of the commissioner to coordinate agencies or instrumentalities of the state set up to render service and benefits to returning veterans; to have charge of and implement programs and benefits authorized by statute; to assist or represent veterans or their widows, administrators, executors, guardians, or heirs, in processing claims; to advise and assist veterans in taking advantage of the provisions of the Servicemen's Readjustment Act of 1944 [Pub. L. 78-346; 58 Stat. 291], or any similar or related measures afforded by the federal government; to assist, supervise, advise, and direct the work of county service officers; to assist county service officers in the formation of county service to veterans' committees and to outline, assist, and direct the activities of such committees; to disseminate information and to do any and all things necessary and proper for the purpose of carrying out the intent and purposes of this chapter.

The department of veterans' affairs may accept and expend funds from any source, including federal or private sources and interest earnings from the veterans' postwar trust fund, to be used to assist veterans or qualified veterans' spouses in obtaining assistance and to pay other expenses authorized by law, incurred pursuant to hearings covered in section 37-19.1-04 or incurred in carrying out programs of benefit and service for resident North Dakota veterans as authorized by the administrative committee on veterans' affairs ~~or~~ with the approval of the emergency commission.

The department of veterans' affairs may receive from the United States government such records of veterans as the United States government may wish to turn over to the department of veterans' affairs and same shall keep and maintain such records as hereafter provided by this chapter."

Re-number accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

**DEPARTMENT 313 - VETERANS HOME**

**CONFERENCE COMMITTEE** - The salaries and wages line item is reduced by \$49,019, \$24,511 of which is from the general fund. Of this reduction, \$18,294, \$9,148 of which is from the general fund, relates to the state employee salary increase provisions of House Bill No. 1018 and \$30,725, \$15,363 of which is from the general fund, relates to reduced employee health insurance costs.

The interagency legal fees line item of \$4,045 from the general fund is deleted to reflect Governor Schafer's recommendation regarding legal fees charged by the Attorney General.

The operating expenses line item is increased by \$17,275 of special funds for indirect cost allocation payments to the Office of Management and Budget.

A section is added providing that additional interest income from the veterans postwar trust fund may be spent only upon approval of the Emergency Commission.

In total, this amendment reduces funding for the Veterans Home by \$35,789, \$11,281 of which is from the general fund and \$24,508 of other funds.

## DEPARTMENT 321 - DEPARTMENT OF VETERANS AFFAIRS

CONFERENCE COMMITTEE - The salaries and wages line item is decreased by \$7,896 from the general fund, of which \$2,688 is for reduced employee health insurance costs and \$5,208 is to reflect the state employee salary increase provisions of House Bill No. 1018.

The interagency legal fees line item of \$4,000 from the general fund is deleted to reflect Governor Schafer's recommendation regarding legal fees charged by the Attorney General.

The information services line item is reduced by \$40 from the general fund in accordance with provisions of House Bill No. 1018.

Sections are added providing that additional income received by the Department of Veterans Affairs may be spent only upon approval of the Emergency Commission.

Funding from the veterans postwar trust fund of \$20,000 for legal fees in veterans' preference cases and \$100,000 for the veterans' unmet needs grant program added in the Senate and reduced in the House remains at the Senate level.

In total, this amendment reduces the Department of Veterans Affairs appropriation by \$11,936 from the general fund.

Engrossed SB 2009 was placed on the Seventh order of business on the calendar.

**REPORT OF CONFERENCE COMMITTEE**

**SEN. ROBINSON MOVED** that the conference committee report on Engrossed SB 2009 be adopted, which motion prevailed.

Engrossed SB 2009, as amended, was placed on the Eleventh order.

**SECOND READING OF SENATE BILL**

**SB 2009:** A BILL for an Act to amend and reenact section 37-18-04 of the North Dakota Century Code, relating to duties of the commissioner of the department of veterans' affairs; and to provide an appropriation for defraying the expenses of the veterans' home and the department of veterans' affairs.

**ROLL CALL**

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 46 YEAS, 0 NAYS, 0 EXCUSED, 3 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; Mushik; Mutch; Nalewaja; Nelson; Nething; O'Connell; Redlin; Robinson; Sand; Scherber; Schoenwald; Solberg; Stenehjem, B.; Stenehjem, W.; Streibel; Tallackson; Tennefos; Thane; Tomac; Traynor; Urlacher; Yockim

**ABSENT AND NOT VOTING:** Maxson; Naaden; Wogsland

SB 2009 passed and the title was agreed to.

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**REPORT OF STANDING COMMITTEE**

**HB 1518:** Industry, Business and Labor Committee (Sen. Langley, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1518 was placed on the Sixth order on the calendar.

Page 1, line 3, replace "and" with "to provide for reports to the budget section of the legislative council;"

Page 1, line 4, after "appropriation" insert "; and to provide an expiration date"

Page 4, after line 21, insert:

- "7. Provides that every employee participating in the new jobs training program must be paid an income at least equal to one hundred twenty percent of the federal poverty level for a family of four, for the life of the loan."

Page 5, line 7, after "the" insert "new"

Page 5, line 9, after "each" insert "new"

Page 5, line 13, replace "ot" with "to"

Page 5, line 23, replace "An" with "A new"

Page 6, after line 20, insert:

**"SECTION 5. REPORTS TO LEGISLATIVE COUNCIL BUDGET SECTION.** The tax commissioner shall report to the budget section of the legislative council the allocations to the special fund under section 3 of this Act, the executive director of job service North Dakota shall report to the budget section on the agreements entered under section 2 of this Act, and the director of the department of economic development and finance shall report to the budget section on loans, grants, and new jobs qualified for program services. The tax commissioner, executive director of job service North Dakota, and the director of the department of economic development and finance shall provide any other information relating to this Act which the budget section requests. The reports must be presented at the times requested by the budget section, but not less than once in each calendar year.

**SECTION 6. EXPIRATION DATE.** This Act is ineffective after June 30, 1995, but the provisions of this Act as they existed on June 30, 1995, remain effective after that date for any loan, grant, or agreement entered or rule adopted before July 1, 1995."

Renumber accordingly

#### CONSIDERATION OF AMENDMENTS

HB 1518: SEN. KRAUTER (Industry, Business and Labor 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 BILL

HB 1518: A BILL for an Act to assist community economic development by providing incentive to businesses to locate and expand within the state through government-assisted new jobs training; to provide for reports to the budget section of the legislative council; to provide a continuing appropriation; and to provide an expiration date.

#### ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 48 YEAS, 0 NAVS, 0 EXCUSED, 1 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; Mutch; 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:** Naaden

HB 1518 passed and the title was agreed to.

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**REPORT OF STANDING COMMITTEE**

**SCR 4076:** Industry, Business and Labor Committee (Sen. Langley, Chairman) recommends **DO NOT PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SCR 4076 was placed on the Eleventh order on the calendar.

**SECOND READING OF SENATE CONCURRENT RESOLUTION**

**SCR 4076:** A concurrent resolution directing the Legislative Council to study the feasibility and desirability of enacting jobs training incentive legislation as a means of assisting community economic development.

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

SCR 4076 was declared lost.

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

**MADAM PRESIDENT:** The House has passed and your favorable consideration is requested on: HB 1519.

**FIRST READING OF SENATE BILL**

Sens. Robinson, DeMers, Holmberg, Kelly, Krebsbach, Nalewaja introduced: (Approved by the Delayed Bills Committee)

**SB 2543:** A BILL for an Act to provide an appropriation for defraying the expenses of the North Dakota university system and the various institutions of higher learning under the supervision of the state board of higher education and to provide an exemption to the provisions of section 54-44.1-11.

Was read the first time and referred to the **Appropriations Committee**.

**FIRST READING OF HOUSE BILLS**

**HB 1516:** A BILL for an Act to create and enact a new chapter to title 57 of the North Dakota Century Code, relating to a tax on the net operating revenue of certain care facilities; to amend and reenact section 53-06.1-12.2, subsection 1 of section 57-36-25, subsection 1 of section 57-36-26, subsection 1 of section 57-36-28, and section 57-36-32 of the North Dakota Century Code, relating to games of chance taxes and tobacco products taxes; to provide a penalty; and to provide an effective date.

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

**HB 1519:** A BILL for an Act to provide an appropriation for defraying the expenses of the North Dakota university system and the various institutions of higher learning under the supervision of the state board of higher education and to provide an exemption to the provisions of section 54-44.1-11.

Was read the first time and referred to the **Appropriations Committee**.

**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., Wednesday, April 21, 1993, which motion prevailed.

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

CAROL SIEGERT, Secretary