

JOURNAL OF THE HOUSE - SPECIAL SESSION

Fifty-third Legislative Assembly

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Bismarck, June 29, 1994

The House convened at 10:00 a.m., with Speaker R. Berg presiding.

The prayer was offered by Representative Pyle.

The roll was called and all members were present except Representatives Kretschmar and Ring.

A quorum was declared by the Speaker.

COMMUNICATION FROM SECRETARY OF STATE ALVIN A. JAEGER

June 28, 1994

In this Executive Order, Edward T. Schafer, Governor of the State of North Dakota, does convene the 53rd North Dakota Legislative Assembly into Special Session on Wednesday, June 29, 1994, at 10:00 a.m.

Since adjournment of the 53rd Legislative Assembly on April 24, 1993, this office has not issued any new Certificates of Election for any one of the positions in the House of Representatives.

EXECUTIVE ORDER 1994-05

I, Edward T. Schafer, Governor of the State of North Dakota, by the authority vested in me, do hereby convene the North Dakota Legislative Assembly into special session on Wednesday, June 29, 1994, at 10:00 a.m., in the Legislative Chambers.

My decision to do so is made upon the following basis and for the following reasons:

1. The Governor is vested with the executive power pursuant to Article V, Section 1, of the North Dakota Constitution;
2. The Governor is vested with the specific authority to call a special session of the Legislative Assembly pursuant to Article V, Section 5 of the North Dakota Constitution; and
3. A special session of the Legislative Assembly is necessary in order to amend chapter 40-57.1, North Dakota Century Code (N.D.C.C.) to allow a property tax exemption for large industrial projects, to amend chapter 57-39.2, N.D.C.C. to allow sales tax exemptions for building material used in agricultural processing plants and for computerized office equipment necessary to operate equipment already exempt, and for such other related purposes as the Legislature may deem appropriate. This action is necessary to encourage a proposed corn processing facility to locate in North Dakota.

Executed at Bismarck, North Dakota, this 16th day of June 1994.

ATTEST:

Alvin A. Jaeger
Secretary of State

REPORT OF PROCEDURAL COMMITTEE

MR. SPEAKER: Your procedural Rules Committee (Rep. Kretschmar, Chairman) has met and recommends that the House and the Joint Rules of the 53rd

Legislative Assembly, as adopted on Wednesday, January 6, 1993, and published in the 1993 Senate and House Rules and Committees book, be amended as follows for the extraordinary session of the 53rd Legislative Assembly:

SECTION 1. AMENDMENT. Subsection 4 of House Rule 318 is amended as follows:

4. The following questions require a two-thirds vote of the members-elect of the House:
 - a. Initiated and referred measures amended or repealed within seven years after enactment or approval, as provided in Section 8, Article III, of the Constitution and House Rule 338.
 - b. Emergency clauses, as provided in Section 13, Article IV, of the Constitution.
 - c. Adoption of propositions of a divided question if the division would require a two-thirds vote of the member-elect, as provided in House Rule 319.
 - d. Reconsideration after a clincher motion, as provided in House Rule 347.
 - e. Reconsideration after the next legislative day or after a previous motion to reconsider, as provided in House Rule 346.
 - f. ~~Second reading same day as report, as provided in House Rule 336.~~
 - ~~g.~~ g. Suspension of requirement that copies of amendments be distributed before acted on, as provided in House Rule 601.
 - ~~h.~~ g. Suspension of the rules, as provided in House Rule 324.
 - ~~i.~~ h. Vetoed measures, reconsideration, as provided in Section 9, Article V, of the Constitution.

SECTION 2. AMENDMENT. House Rule 336 is amended as follows:

336. SECOND READING. No bill requiring the approval of the Governor, no resolution proposing a change in the Constitution of North Dakota, and no resolution ratifying an amendment to the Constitution of the United States may be referred, except in the case of a bill or resolution that is prefiled pursuant to House Rule 401, or amended until it has been read; nor may any such bill or resolution have its second reading and final passage until at least one day after ~~it has been reported to the House by the committee to which it was referred, provided that any such bill or resolution may have its second reading and final passage on the same day it is reported back when so ordered by two thirds of the members elect of the House~~ its first reading.

SECTION 3. AMENDMENT. House Rule 345 is amended as follows:

345. NOTICE OF INTENTION TO RECONSIDER. ~~Except on the thirty third legislative day and on or after the fiftieth legislative day, when~~ When notice of intention to move the reconsideration of any bill or resolution ~~must be~~ is given by a member, the Clerk of the House shall retain the bill or resolution until the end of the ~~next~~ legislative day, unless the bill or resolution has previously been disposed of. When a member in explaining the member's vote states to the House that the member's vote is for the purpose of reconsideration, that statement is notice of such intention.

SECTION 4. AMENDMENT. Subsection 1 of House Rule 401 is amended as follows:

1. Any bill or resolution that conforms to statutory requirements and these rules, ~~within the number and time prescribed,~~ may be introduced by any member, standing committee, or the Legislative Council, by filing the bill or resolution with the Clerk of the House, who shall number consecutively each bill or resolution.

SECTION 5. AMENDMENT. Subsections 1 and 2 of House Rule 402 are amended as follows:

1. ~~No bill may be introduced after the tenth legislative day and no member other than the Majority and Minority Leaders may introduce more than five bills as prime sponsor after the fifth legislative day, nor may any or resolution, except those resolutions hereinafter provided for, may be introduced after the eighteenth legislative day, except upon approval of the Legislative Council or a majority of the Delayed Bills Committee or upon two-thirds vote of the House.~~
2. No bill introduced at the request of an executive agency or the Supreme Court may be introduced ~~after December tenth before the ensuing regular session,~~ except upon approval of a majority of the Delayed Bills Committee.

SECTION 6. AMENDMENT. House Rule 403 is amended as follows:

403. DELAYED BILLS AND RESOLUTIONS. The Delayed Bills Committee shall receive from the Chief Clerk all bills and resolutions offered for introduction ~~after the time for introduction as limited by House Rule 402,~~ and, on the same or the next legislative day after receiving such bill or resolution, shall report to the House its conclusion whether the introduction of the bill or resolution should be allowed. If a majority of the committee favors introduction, the bill or resolution may be introduced. All such bills and resolutions must bear the name or names of the original sponsors.

SECTION 7. AMENDMENT. House Rule 504 is amended as follows:

504. MEETINGS OF COMMITTEES.

1. ~~The Appropriations Committee meets on Monday, Tuesday, Wednesday, Thursday, and Friday of each week.~~
2. ~~The three day committees meet on Monday, Tuesday, and Wednesday of each week.~~
3. ~~The two day committees meet on Thursday and Friday of each week.~~
4. ~~Any committee that meets on Wednesday and which has a member who is also a member of the Joint Constitutional Revision Committee may not meet during the time the Joint Constitutional Revision Committee meets. Any committee that meets on Wednesday may adjust its schedule to allow time for committees without regularly scheduled meeting times to meet.~~
5. The chairman of any committee, or a majority of that committee, may call meetings at times and on other days as deemed necessary.

SECTION 8. AMENDMENT. House Rule 601 is amended as follows:

601. REPORT OF COMMITTEES.

1. The report of a committee must provide for one or more of the following recommendations with respect to the bill or resolution: do pass, do not pass, be amended, be rereferred to another committee, or be placed on the calendar without recommendation. However, when a committee fails to adopt any of the above

recommendations due to the lack of a majority, the chairman shall report the bill to the floor with whatever minority reports individual committee members may request.

2. a. If the committee report is for amendment, the proposed amendment must be placed on the calendar ~~for the next legislative day~~ on the sixth order of business.
 - b. No action may be taken on an amendment until a verbatim copy of the amendment has been distributed to each member; provided, that on a two-thirds vote of the members-elect, this may be suspended, and the amendment acted on immediately after the report of the committee.
 - c. If the amendment is adopted by a majority vote of the members present, the amended measure must then be placed on the calendar ~~for the next legislative day~~ under the applicable order of business for second reading and final passage except as provided in subdivision e ~~or g~~.
 - d. If the amendment is rejected, the measure without amendment must be placed on the calendar ~~for the next legislative day~~ under the applicable order of business for second reading and final passage except as provided in subdivision e ~~or g~~.
 - e. If the committee report is for amendment and then rereferral to another committee, the measure must be rereferred to the appropriate committee after adoption or rejection of the amendment. If, after adoption or rejection of the amendment, a measure is subject to rereferral under House Rule 329, the measure must be rereferred to the Appropriations Committee, regardless of whether the report provides for rereferral.
 - f. If the committee report does not recommend rereferral to another committee but recommends that the measure pass, do not pass, or makes no recommendation, the measure must be placed on the calendar ~~for the next legislative day~~ under the applicable order of business for second reading and final passage ~~except as provided in subdivision g~~.
 - g. ~~On motion~~ Except as provided in subdivision e, a measure must be placed on the calendar for second reading and final passage immediately after action is taken on the amendment. ~~After the thirty-second legislative day all House bills, and after the fifty-fifth legislative day all measures, must be placed on the calendar for second reading and final passage immediately after action is taken on the amendment. A measure placed on the calendar under this subdivision may be acted on immediately after placement on the calendar.~~
 - h. A report for amendment must be approved as to form and style by the Legislative Council staff. When a report for amendment is received by the Chief Clerk without a notation that the report was approved as to form and style by the Legislative Council staff, the Chief Clerk immediately shall cause that report to be delivered to the Legislative Council office with a request that the report be examined and receive a notation approving its form and style.
3. If the committee report is divided as provided in House Rule 602, and one report is for amendment with the other that the bill do not pass, the reports must be placed on the calendar ~~for the next legislative day~~ on the seventh order of business. The Speaker shall receive and announce a motion that the report of the minority be substituted for the majority committee report. If a "do not

pass" report is adopted under this subsection, the measure must be placed on the calendar on the eleventh or fourteenth order of business.

4. During the fifth order of business, the Chief Clerk shall announce that committee reports have been received, if such is the case, and shall list the bill or resolution number, or other identifier, and state the accompanying committee recommendation.
5. If the committee report is divided pursuant to House Rule 602, the Chief Clerk shall announce the majority report and the minority report, or reports, as well.
6. The If practicable, the Chief Clerk shall ensure that the daily calendar contains appropriate notation of committee reports.

SECTION 9. AMENDMENT. Joint Rule 202 is amended as follows:

202. RECEDING BEFORE CONFERENCE. Either house may recede from any subject matter of difference existing between the two houses at any time before a conference whether the papers on which difference has arisen are before the house receding formally or informally, and a majority governs, except in case where two-thirds are required by the Constitution, and the question having been put and lost, may ~~not~~ be again put the same day, and the consideration thereof in other respects is regulated by the rules of the respective houses.

SECTION 10. AMENDMENT. Joint Rule 206 is amended as follows:

206. CONSENT CALENDAR.

1. Each standing committee may report an uncontested amendment, bill, or resolution, or a contested resolution out of committee and may include in its report a recommendation for placement on the consent calendar.
2. As used in this rule, "uncontested amendment, bill, or resolution" means any amendment, bill, or resolution, except an amendment or a bill providing an appropriation, which receives a do pass or do pass as amended recommendation from the committee of referral, by unanimous vote of the members present provided a quorum is present. As used in this rule, "contested resolution" means any resolution that receives a do pass or do pass as amended recommendation from the committee of referral, by any vote other than a unanimous vote of the members present provided a quorum is present.
3. Following the presentation of a committee report recommending placement on the consent calendar, all amendments, bills, or resolutions recommended by the committee for placement on the consent calendar must be placed on the consent calendar.
4. A resolution directing a Legislative Council study which receives a do pass or do pass as amended recommendation from the committee of referral must be placed on the consent calendar, regardless of whether the committee report recommends placement on the consent calendar.
5. Any consent calendar amendment, bill, or resolution that is amended from the floor must be taken off the consent calendar and must be placed on the regular calendar.
6. Upon objection of any member to the placement or retention of any uncontested amendment, bill, or resolution, any contested resolution, or any Legislative Council study resolution on the

consent calendar, the bill or resolution must be taken off the consent calendar and must be placed on the regular calendar.

7. ~~No item on the consent calendar may be considered for adoption on the same legislative day it is placed on the consent calendar.~~

SECTION 11. AMENDMENT. Joint Rule 208 is amended as follows:

208. INTRODUCTION OF EXECUTIVE DEPARTMENT AND SUPREME COURT BILLS.

Each executive agency and the Supreme Court shall file with the Legislative Council those bills they wish to have introduced ~~no later than December tenth before the ensuing regular session.~~ Each. Upon approval by the appropriate Delayed Bills Committee, each bill is deemed introduced by the standing committee of the House or Senate with general jurisdiction over the subject matter of the bill. The Legislative Council shall number and deliver those bills to the President of the Senate or the Speaker of the House for recording. Each bill must be identified by noting the name of the agency or the court under the name of the sponsoring committee. The identification may include the names of not more than five entities authorized to file bills under this rule.

SECTION 12. AMENDMENT. Subsection 4 of Joint Rule 501 is amended as follows:

4. a. Every fiscal note must be prepared in triplicate and must be returned to the Legislative Council or the committee chairman making the request, whichever the case may be, not later than ~~five days~~ one day from the date of the request.
- b. One copy of the fiscal note must be attached to the original bill or resolution, one copy must be filed with the Bill Clerk of the house wherein the bill or resolution originated, and one copy must be filed in the Legislative Council office.

REP. MARTINSON MOVED that the report be adopted, which motion prevailed.

REPORT OF DELAYED BILLS COMMITTEE

MR. SPEAKER: Your Delayed Bills Committee (Rep. Martinson, Chairman) has examined and has cast a unanimous ballot in favor of a bill for an Act to create and enact a new section to chapter 57-39.2 of the North Dakota Century Code, relating to a sales tax exemption for materials used to construct an agricultural commodity processing facility; to amend and reenact sections 40-57.1-03, 40-57.1-06, 57-15-31, and subsection 4 of section 57-39.2-04.3 of the North Dakota Century Code and subsection 5 of section 57-39.2-04.3 of the North Dakota Century Code as amended by section 1 of chapter 565 of the 1993 Session Laws, relating to a property tax exemption or payments in lieu of taxes which may be granted for new industries and sales tax exemptions for manufacturing machinery and construction materials for agricultural commodity processing facilities; to repeal section 40-57.1-08 of the North Dakota Century Code, relating to limitations on industrial projects that may qualify for tax exemptions for new industries; to provide an effective date; to declare a retroactive application; and to provide an expiration date.

The bill will be HB 1520.

REP. MARTINSON MOVED that the report be adopted, which motion prevailed.

FIRST READING OF HOUSE BILL

Reps. Martinson, Oban and Sens. Wogsland, Nelson introduced:
(Approved by the Delayed Bills Committee)

HB 1520: A BILL for an Act to create and enact a new section to chapter 57-39.2 of the North Dakota Century Code, relating to a sales tax exemption for materials used to construct an agricultural commodity processing facility; to amend and reenact sections 40-57.1-03, 40-57.1-06, 57-15-31, and subsection 4 of section 57-39.2-04.3 of the

North Dakota Century Code and subsection 5 of section 57-39.2-04.3 of the North Dakota Century Code as amended by section 1 of chapter 565 of the 1993 Session Laws, relating to a property tax exemption or payments in lieu of taxes which may be granted for new industries and sales tax exemptions for manufacturing machinery and construction materials for agricultural commodity processing facilities; to repeal section 40-57.1-08 of the North Dakota Century Code, relating to limitations on industrial projects that may qualify for tax exemptions for new industries; to provide an effective date; to declare a retroactive application; and to provide an expiration date.

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

MOTION

REP. FREIER MOVED that the absent members be excused, which motion prevailed.

MOTION

REP. FREIER MOVED that the House be on the Fifth and Twelfth orders of business and at the conclusion of those orders, the House stand adjourned until 8:00 a.m., Thursday, June 30, 1994, which motion prevailed.

REPORT OF STANDING COMMITTEE

HB 1520: Finance and Taxation Committee (Rep. Timm, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (15 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1520, as amended, was placed on the Sixth order on the calendar.

Page 1, line 13, remove "to declare a retroactive application;"

Page 7, line 14, after the period insert:

"Primarily" means more than fifty percent of the time the machinery or equipment is used.

g."

Page 9, line 14, after the period insert:

"Primarily" means more than fifty percent of the time the machinery or equipment is used.

g."

Page 9, line 19, overstrike "g." and insert immediately thereafter "h."

Page 11, line 19, remove "RETROACTIVE APPLICATION -"

Page 11, line 23, replace "any agricultural commodity processing" with "taxable events occurring after June 30, 1994; and section 5 of this Act is effective for taxable events occurring after June 30, 1994, is effective through June 30, 1995, and after that date is ineffective."

Page 11, remove lines 24 through 29

Renumber accordingly

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

MR. SPEAKER: The Senate has passed and your favorable consideration is requested on: SCR 4078.

The House stood adjourned pursuant to Representative Freier's motion.

ROY GILBREATH, Chief Clerk