

JOURNAL OF THE HOUSE

Fifty-seventh Legislative Assembly

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Bismarck, April 26, 2001

The House convened at 8:30 a.m., with Speaker Bernstein presiding.

The prayer was offered by Rep. Frank Wald, District 37, Dickinson.

The roll was called and all members were present except Representatives Fairfield, Jensen, and Kretschmar.

A quorum was declared by the Speaker.

CONSIDERATION OF CONFERENCE COMMITTEE REPORT

REP. WALD MOVED that the conference committee report on HB 1020 be adopted, which motion prevailed on a voice vote.

HB 1020, as amended, was placed on the Eleventh order.

SECOND READING OF HOUSE BILL

HB 1020: A BILL for an Act to provide an appropriation for defraying the expenses of the state historical society; and to declare an emergency.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 92 YEAS, 3 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

YEAS: Aarsvold; Bellew; Belter; Berg; Boehm; Boucher; Brandenburg; Brekke; Brusegaard; Byerly; Carlisle; Carlson; Clark; Cleary; DeKrey; Delmore; Delzer; Devlin; Disrud; Dosch; Drovdal; Eckre; Ekstrom; Froseth; Galvin; Glassheim; Grande; Grosz; Grumbo; Gulleon; Gunter; Haas; Hanson; Hawken; Herbel; Huether; Hunskor; Johnson, D.; Johnson, N.; Kasper; Keiser; Kelsch, R.; Kelsh, S.; Kempenich; Kingsbury; Klein, F.; Klein, M.; Klemin; Kliniske; Koppang; Koppelman; Kroeber; Lloyd; Mahoney; Maragos; Martinson; Meier; Metcalf; Monson; Mueller; Nelson; Nicholas; Niemeier; Nottestad; Onstad; Pietsch; Pollert; Porter; Price; Renner; Rennerfeldt; Ruby; Sandvig; Schmidt; Severson; Skarphol; Solberg; Svedjan; Thoreson, B.; Thoreson, L.; Thorpe; Tieman; Timm; Wald; Warner; Weiler; Weisz; Wentz; Wikenheiser; Winrich; Wrangham; Speaker Bernstein

NAYS: Froelich; Kerzman; Lemieux

ABSENT AND NOT VOTING: Fairfield; Jensen; Kretschmar

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

MOTION

REP. MONSON MOVED that the House stand in recess until 1:00 p.m., which motion prevailed.

THE HOUSE RECONVENED pursuant to recess taken, with Speaker Bernstein presiding.

REPORT OF CONFERENCE COMMITTEE

SB 2088: Your conference committee (Sens. Stenehjem, Trenbeath, O'Connell and Reps. Weisz, Price, Mahoney) recommends that the **HOUSE RECEDE** from the House amendments on SJ pages 1003-1004, adopt amendments as follows, and place SB 2088 on the Seventh order:

That the House recede from its amendments as printed on pages 1003 and 1004 of the Senate Journal and pages 1076 and 1077 of the House Journal and that Senate Bill No. 2088 be amended as follows:

Page 1, line 1, remove "create and enact two new subsections to section 39-06.1-06 of the North"

Page 1, line 2, remove "Dakota Century Code, relating to fees for traffic offenses; to"

Page 1, line 3, after the first comma insert "39-06.1-06,"

Page 1, line 5, after "Code" insert "and subsection 6 of section 39-12-05.3 of the North Dakota Century Code as amended by Senate Bill No. 2054, as approved by the fifty-seventh legislative assembly", after "offenses" insert "and weight limitations", remove "and", and after "penalties" insert "; to provide an expiration date; and to declare an emergency"

Page 2, line 5, replace "A new subsection to section" with "**AMENDMENT.** Section"

Page 2, line 6, replace "created" with "amended", replace "enacted" with "reenacted", and after the colon insert:

"39-06.1-06. Amount of statutory fees. The fees required for a noncriminal disposition pursuant to either section 39-06.1-02 or 39-06.1-03 must be as follows:

1. For a nonmoving violation as defined in section 39-06.1-08, a fee of any amount not to exceed twenty dollars.
2. For a moving violation as defined in section 39-06.1-09, a fee of twenty dollars, except for:
 - a. A violation of section 39-10-26, 39-10-26.2, 39-10-41, 39-10-42, 39-10-46, or 39-10-46.1, a fee of fifty dollars.
 - b. A violation of section 39-10-05 involving failure to yield to a pedestrian or subsection 1 of section 39-10-28, a fee of fifty dollars.
 - c. A violation of section 39-21-41.2, no fee may be imposed by the state, a city, or a county including a city or county operating under a home rule charter.
3. Except as provided in ~~subsection 8~~ subsections 7 and 11 of this section 39-06.1-06, for a violation of section 39-09-02, or an equivalent ordinance, a fee established as follows:

Miles per hour over lawful speed limit	Fee
1 - 5	\$ 5
6 - 10	\$ 5 plus \$1/each mph over 5 mph over limit
11 - 15	\$ 10 plus \$1/each mph over 10 mph over limit
16 - 20	\$ 15 plus \$2/each mph over 15 mph over limit
21 - 25	\$ 25 plus \$3/each mph over 20 mph over limit
26 - 35	\$ 40 plus \$3/each mph over 25 mph over limit
36 - 45	\$ 70 plus \$3/each mph over 35 mph over limit
46 +	\$100 plus \$5/each mph over 45 mph over limit

4. For a violation of section 39-09-01, or an ordinance defining careless driving, a fee of thirty dollars.
5. For a violation of section 39-09-01.1, or an ordinance defining care required in driving, a fee of not less than ten dollars nor more than thirty dollars.
6. ~~Repealed by S.L. 1985, ch. 430, § 4.~~
- ~~7.~~ For a violation of any traffic parking regulations, except a violation of subsection 10 of section 39-01-15, on any state charitable or penal institution property or on the state capitol grounds, a fee in the amount of five dollars.
- ~~8.~~ 7. ~~On~~ Except as provided in subsection 11, on a highway on which the speed limit is a speed higher than fifty-five miles [88.51 kilometers] an hour, for a violation of section 39-09-02, or an equivalent ordinance, a fee established as follows:

Miles per hour over lawful speed limit	Fee
1 - 5	\$ 10 plus \$1/each mph over limit
6 - 10	\$ 15 plus \$2/each mph over 5 mph over limit
11 - 15	\$ 25 plus \$3/each mph over 10 mph over limit
16 - 20	\$ 40 plus \$3/each mph over 15 mph over limit
21 - 25	\$ 40 55 plus \$3/each mph over 45 20 mph over limit
26 - 35	\$ 70 plus \$3/each mph over 25 mph over limit
36 + - 45	\$400 120 plus \$5/each mph over 35 mph over limit
46 +	\$170 plus \$5/each mph over 45 mph over limit

9- ~~8.~~ For a violation of section 39-21-41.4, a fee not to exceed twenty dollars."

Page 2, line 7, replace "For" with "9. For"

Page 2, remove lines 9 and 10

Page 2, line 11, replace "For" with "10. For"

Page 2, after line 24, insert:

"11. On a highway on which the speed limit is posted in excess of seventy miles [112.65 kilometers] an hour, for a violation of 39-09-02, or equivalent ordinance, a fee established as follows:

Miles per hour over lawful speed limit	Fee
<u>1 - 5</u>	<u>\$ 20</u>
<u>6 - 10</u>	<u>\$ 40</u>
<u>11 - 15</u>	<u>\$ 60</u>
<u>16 - 20</u>	<u>\$ 80</u>
<u>21 - 25</u>	<u>\$100</u>
<u>26 - 30</u>	<u>\$125</u>
<u>31 - 35</u>	<u>\$150</u>
<u>36 +</u>	<u>\$150 plus \$5/each mph over 35 mph over limit"</u>

Page 8, line 31, overstrike "paragraphs 31 and 34" and insert immediately thereafter "paragraph 33" and remove the overstrike over "~~of this~~"

Page 9, line 1, remove the overstrike over "~~subdivision~~"

Page 9, overstrike lines 5 through 15

Page 9, line 16, overstrike "1 point" and insert immediately thereafter "0 points"

Page 9, line 17, overstrike "2 points" and insert immediately thereafter "1 point"

Page 9, line 19, overstrike "4" and insert immediately thereafter "5"

Page 9, line 20, overstrike "6" and insert immediately thereafter "9"

Page 9, line 21, overstrike "8" and insert immediately thereafter "12"

Page 9, line 22, overstrike "12" and insert immediately thereafter "15"

Page 9, line 23, overstrike "(32)" and insert immediately thereafter "(31)"

Page 9, line 25, overstrike "(33)" and insert immediately thereafter "(32)"

Page 9, line 27, overstrike "(34)" and insert immediately thereafter "(33)"

Page 9, line 28, overstrike "a speed higher"

Page 9, line 29, overstrike "than fifty-five miles [88.51]" and insert immediately thereafter "posted in excess of seventy miles [112.65]"

Page 10, after line 5, insert:

"1 - 5

0"

Page 10, line 7, overstrike "4" and insert immediately thereafter "2"

Page 10, line 8, overstrike "25" and insert immediately thereafter "20" and overstrike "7" and insert immediately thereafter "5"

Page 10, after line 8, insert:

"21 - 25" 7"

Page 10, line 9, overstrike "35" and insert immediately thereafter "30"

Page 10, after line 9, insert:

"31 - 35" 12"

Page 10, line 10, overstrike "12" and insert immediately thereafter "15"

Page 10, line 11, overstrike "(35)" and insert immediately thereafter "(34)"

Page 10, line 14, replace "(36)" with "(35)"

Page 10, line 18, replace "(37)" with "(36)"

Page 14, after line 29, insert:

"SECTION 7. AMENDMENT. Subsection 6 of section 39-12-05.3 of the North Dakota Century Code as amended by Senate Bill No. 2054, as approved by the fifty-seventh legislative assembly, is amended and reenacted as follows:

6. The gross weight limitations in subsections 1 and 2 do not apply to movement of a self-propelled fertilizer spreader if the vehicle does not travel at speeds in excess of thirty miles [48.28 kilometers] per hour when loaded over one-half capacity and the gross weight does not exceed eighty thousand pounds [38287.39 kilograms]. The gross weight limitations in subsections 1 and 2 do not apply to movement of a self-propelled agricultural chemical applicator if the vehicle does not travel at speeds in excess of thirty miles [48.28 kilometers] per hour when loaded over one-half capacity and the gross weight does not exceed forty-five thousand pounds [20411.66 kilograms]. The highway patrol shall issue a seasonal permit for the commercial movement of vehicles exempted by this subsection. The seasonal permit issued under this subsection or under subdivision d of subsection 1 of section 39-12-04 entitles an individual with the permit to operate a vehicle as allowed by either of these provisions. A seasonal permit issued under this subsection is subject to the requirements of subdivision d of subsection 1 of section 39-12-04, ~~except a vehicle exempted by this subsection which is an implement of husbandry is not required to have proof of financial responsibility and does not have to be operated by a commercial entity.~~

Page 15, after line 31, insert:

"SECTION 10. EXPIRATION DATE. Section 7 of this Act is effective through July 31, 2003, and after that date is ineffective.

SECTION 11. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

SB 2088 was placed on the Seventh order of business on the calendar.

CONSIDERATION OF CONFERENCE COMMITTEE REPORT

REP. WEISZ MOVED that the conference committee report on SB 2088 be adopted, which motion prevailed on a voice vote.

SB 2088, as amended, was placed on the Fourteenth order.

SECOND READING OF SENATE BILL

SB 2088: A BILL for an Act to amend and reenact sections 39-06.1-05, 39-06.1-06, 39-06.1-07, 39-06.1-09, and 39-06.1-10, subdivision g of subsection 2 of

section 39-07-09, and subsections 1 and 2 of section 39-21-46 of the North Dakota Century Code and subsection 6 of section 39-12-05.3 of the North Dakota Century Code as amended by Senate Bill No. 2054, as approved by the fifty-seventh legislative assembly, relating to traffic offenses and weight limitations; to provide penalties; to provide an expiration date; and to declare an emergency.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 78 YEAS, 17 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

YEAS: Aarsvold; Bellew; Belter; Berg; Boucher; Brandenburg; Brekke; Brusegaard; Byerly; Carlisle; Carlson; Clark; Cleary; DeKrey; Delmore; Devlin; Disrud; Dosch; Drovdal; Eckre; Ekstrom; Fairfield; Galvin; Glassheim; Grande; Grumbo; Gulleson; Gunter; Haas; Hanson; Hawken; Huether; Hunskor; Johnson, D.; Johnson, N.; Kasper; Kelsch, R.; Kelsh, S.; Kempenich; Kingsbury; Klein, M.; Kliniske; Koppang; Koppelman; Kroeber; Mahoney; Maragos; Martinson; Meier; Metcalf; Monson; Mueller; Nelson; Nicholas; Niemeier; Nottestad; Onstad; Pietsch; Pollert; Porter; Price; Rennerfeldt; Ruby; Sandvig; Schmidt; Severson; Skarphol; Svedjan; Thoreson, B.; Thoreson, L.; Tieman; Warner; Weiler; Weisz; Wentz; Wikenheiser; Winrich; Speaker Bernstein

NAYS: Boehm; Delzer; Froelich; Froseth; Grosz; Herbel; Keiser; Klein, F.; Klemin; Lemieux; Lloyd; Renner; Solberg; Thorpe; Timm; Wald; Wrangham

ABSENT AND NOT VOTING: Jensen; Kerzman; Kretschmar

Engrossed SB 2088 passed, the title was agreed to, and the emergency clause was declared carried.

MOTION

REP. MONSON MOVED that the House stand in recess until 3:30 p.m., which motion prevailed.

THE HOUSE RECONVENED pursuant to recess taken, with Speaker Bernstein presiding.

CONSIDERATION OF MESSAGE FROM THE SENATE

REP. R. KELSCH MOVED that the House do concur in the Senate amendments to Engrossed HB 1321 as printed on HJ pages 1226-1227, which motion prevailed on a voice vote.

Engrossed HB 1321, as amended, was placed on the Eleventh order of business.

SECOND READING OF HOUSE BILL

HB 1321: A BILL for an Act to amend and reenact section 15-40.1-07.7 of the North Dakota Century Code or in the alternative to amend and reenact section 15.1-27-12 of the North Dakota Century Code, relating to the payments for limited English proficient students.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 0 YEAS, 0 NAYS, 0 EXCUSED, 98 ABSENT AND NOT VOTING.

ABSENT AND NOT VOTING: Aarsvold; Bellew; Belter; Berg; Boehm; Boucher; Brandenburg; Brekke; Brusegaard; Byerly; Carlisle; Carlson; Clark; Cleary; DeKrey; Delmore; Delzer; Devlin; Disrud; Dosch; Drovdal; Eckre; Ekstrom; Fairfield; Froelich; Froseth; Galvin; Glassheim; Grande; Grosz; Grumbo; Gulleson; Gunter; Haas; Hanson; Hawken; Herbel; Huether; Hunskor; Jensen; Johnson, D.; Johnson, N.; Kasper; Keiser; Kelsch, R.; Kelsh, S.; Kempenich; Kerzman; Kingsbury; Klein, F.; Klein, M.; Klemin; Kliniske; Koppang; Koppelman; Kretschmar; Kroeber; Lemieux; Lloyd; Mahoney; Maragos; Martinson; Meier; Metcalf; Monson; Mueller; Nelson; Nicholas; Niemeier; Nottestad; Onstad; Pietsch; Pollert; Porter; Price; Renner; Rennerfeldt; Ruby; Sandvig; Schmidt; Severson; Skarphol; Solberg; Svedjan; Thoreson, B.; Thoreson, L.; Thorpe; Tieman; Timm; Wald; Warner; Weiler; Weisz; Wentz; Wikenheiser; Winrich; Wrangham; Speaker Bernstein

Reengrossed HB 1321 passed and the title was agreed to.

REPORT OF CONFERENCE COMMITTEE

HB 1399, as engrossed: Your conference committee (Sens. Wardner, Christmann, Nichols and Reps. Carlson, Grosz, Schmidt) recommends that the **SENATE RECEDE** from the Senate amendments on HJ pages 1365-1368, adopt amendments as follows, and place HB 1399 on the Seventh order:

That the Senate recede from its amendments as printed on pages 1365-1368 of the House Journal and pages 1182-1185 of the Senate Journal and that Engrossed House Bill No. 1399 be amended as follows:

Page 1, line 1, replace "section" with "sections" and after "57-38-30.3" insert "and 57-38-31.1"

Page 1, line 2, after "return" insert "and the filing of composite returns; to repeal section 57-38-34.1 of the North Dakota Century Code, relating to an optional card income tax return"

Page 1, line 17, remove "adjusted gross income and a federal"

Page 1, line 21, overstrike "This tax is", remove "two and seven-tenths", and overstrike "percent of the individual's, estate's, or"

Page 1, line 22, overstrike "trust's adjusted federal", remove "taxable", overstrike "income", remove "that is taxable to this state", and overstrike "for"

Page 1, line 23, overstrike "the taxable year" and replace "if the individual's, estate's, or trust's federal adjusted gross income" with "The tax for individuals is equal to North Dakota taxable income multiplied by the rates in the applicable rate schedule in subdivisions a through d corresponding to an individual's filing status used for federal income tax purposes. For an estate or trust, the schedule in subdivision e must be used for purposes of this subsection. For a nonresident individual, estate, or trust, the tax is equal to the tax determined in accordance with the applicable schedule in subdivisions a through e multiplied by the fraction under subdivision f."

a. Single, other than head of household or surviving spouse.

<u>If North Dakota taxable income is:</u>	<u>The tax is equal to:</u>
<u>Not over \$27,050</u>	<u>2.10%</u>
<u>Over \$27,050 but not over \$65,550</u>	<u>\$568.05 plus 3.92% of amount over \$27,050</u>
<u>Over \$65,550 but not over \$136,750</u>	<u>\$2,077.25 plus 4.34% of amount over \$65,550</u>
<u>Over \$136,750 but not over \$297,350</u>	<u>\$5,167.33 plus 5.04% of amount over \$136,750</u>
<u>Over \$297,350</u>	<u>\$13,261.57 plus 5.54% of amount over \$297,350</u>

b. Married filing jointly and surviving spouse.

<u>If North Dakota taxable income is:</u>	<u>The tax is equal to:</u>
<u>Not over \$45,200</u>	<u>2.10%</u>
<u>Over \$45,200 but not over \$109,250</u>	<u>\$949.20 plus 3.92% of amount over \$45,200</u>
<u>Over \$109,250 but not over \$166,500</u>	<u>\$3,459.96 plus 4.34% of amount over \$109,250</u>
<u>Over \$166,500 but not over \$297,350</u>	<u>\$5,944.61 plus 5.04% of amount over \$166,500</u>
<u>Over \$297,350</u>	<u>\$12,539.45 plus 5.54% of amount over \$297,350</u>

c. Married filing separately.

<u>If North Dakota taxable income is:</u>	<u>The tax is equal to:</u>
<u>Not over \$22,600</u>	<u>2.10%</u>
<u>Over \$22,600 but not over \$54,625</u>	<u>\$474.60 plus 3.92% of amount over \$22,600</u>
<u>Over \$54,625 but not over \$83,250</u>	<u>\$1,729.98 plus 4.34% of amount over \$54,625</u>
<u>Over \$83,250 but not over \$148,675</u>	<u>\$2,972.31 plus 5.04% of amount over \$83,250</u>
<u>Over \$148,675</u>	<u>\$6,269.73 plus 5.54% of amount over \$148,675</u>

d. Head of household.

<u>If North Dakota taxable income is:</u>	<u>The tax is equal to:</u>
<u>Not over \$36,250</u>	<u>2.10%</u>
<u>Over \$36,250 but not over \$93,650</u>	<u>\$761.25 plus 3.92% of amount over \$36,250</u>
<u>Over \$93,650 but not over \$151,650</u>	<u>\$3,011.33 plus 4.34% of amount over \$93,650</u>
<u>Over \$151,650 but not over \$297,350</u>	<u>\$5,528.53 plus 5.04% of amount over \$151,650</u>
<u>Over \$297,350</u>	<u>\$12,871.81 plus 5.54% of amount over \$297,350</u>

e. Estates and trusts.

<u>If North Dakota taxable income is:</u>	<u>The tax is equal to:</u>
<u>Not over \$1,800</u>	<u>2.10%</u>
<u>Over \$1,800 but not over \$4,250</u>	<u>\$37.80 plus 3.92% of amount over \$1,800</u>
<u>Over \$4,250 but not over \$6,500</u>	<u>\$133.84 plus 4.34% of amount over \$4,250</u>
<u>Over \$6,500 but not over \$8,900</u>	<u>\$231.49 plus 5.04% of amount over \$6,500</u>
<u>Over \$8,900</u>	<u>\$352.45 plus 5.54% of amount over \$8,900</u>

- f. For a nonresident individual, estate, or trust, the tax determined under the applicable schedule in subdivisions a through e must be multiplied by a fraction in which:
- (1) The numerator is the individual's federal adjusted gross income derived from North Dakota sources; and
 - (2) The denominator is the individual's federal adjusted gross income from all sources reduced by the net income from the amounts specified in subdivisions a and b of subsection 3.
- g. If married individuals who file a joint federal income tax return are required to file separate state income tax returns under any provision of this chapter, the tax under this subsection for each spouse must be determined by applying the rates under subdivision b to the spouses' joint North Dakota taxable income and prorating the result between the spouses based on their separate North Dakota taxable incomes.
- h. For taxable years beginning after December 31, 2001, the tax commissioner shall prescribe new rate schedules that apply in lieu of the schedules set forth in subdivisions a through e. The new schedules must be determined by increasing the minimum and maximum dollar amounts for each income bracket for which a tax is imposed by the cost-of-living adjustment for the taxable year as determined by the secretary of the United States treasury for purposes of section 1(f) of the United States Internal Revenue Code of 1954, as amended. For this purpose, the rate applicable to each income bracket may not be changed, and the manner of applying the cost-of-living adjustment must be the same as that used for adjusting the income brackets for federal income tax purposes."

Page 1, remove line 24

Page 2, remove lines 1 through 6

Page 2, line 7, remove "wife filing a joint state income tax return"

Page 2, line 8, overstrike "The adjusted federal", remove "taxable", overstrike "income", remove "for purposes of this section", and overstrike "for a"

Page 2, line 9, overstrike "resident", remove "or nonresident", and overstrike "individual, estate, and trust must be determined by"

Page 2, line 11, remove "deducting the taxpayer's taxable", overstrike "income", remove "that is not", and overstrike "taxable to"

Page 2, line 12, overstrike "this state", remove "from", overstrike "the total", and remove "federal"

Page 2, line 13, remove "taxable", and overstrike "income as reported on the federal income tax return. To the extent they"

Page 2, line 14, overstrike "are included in the taxpayer's federal", remove "taxable", and overstrike "income, the following"

Page 2, line 15, overstrike "amounts must", remove "also", overstrike "be", and replace "deducted" with "For purposes of this section, "North Dakota taxable income" means the federal taxable income of an individual, estate, or trust as computed under the Internal Revenue Code of 1986, as amended, adjusted as follows"

Page 2, line 16, overstrike "Interest" and insert immediately thereafter "Reduced by interest"

Page 2, line 19, overstrike "The" and insert immediately thereafter "Reduced by the"

Page 2, line 25, overstrike "An" and insert immediately thereafter "Reduced by the"

Page 2, after line 27, insert:

- "d. Reduced by thirty percent of the excess of the taxpayer's net long-term capital gain for the taxable year over the net short-term capital loss for that year, as computed for purposes of the Internal Revenue Code of 1986, as amended.
- e. Increased by the amount of a lump sum distribution for which income averaging was elected under section 402 of the Internal Revenue Code of 1986 [26 U.S.C. 402], as amended. This adjustment does not apply if the taxpayer received the lump sum distribution while a nonresident of this state and the distribution is exempt from taxation by this state under federal law.
- f. Increased by an amount equal to the losses that are passed through to a taxpayer in connection with an allocation and apportionment to North Dakota under chapter 57-35.3."

Page 4, line 21, after the overstruck period insert:

"Each adjustment in subsection 3 may be allowed only to the extent the adjustment is attributable to income allocated and apportioned to this state."

Page 4, line 22, after the overstruck period insert "5." and overstrike "A husband and wife" and insert immediately thereafter "Married individuals"

Page 4, line 27, replace "5" with "6"

Page 5, line 4, overstrike "entire" and insert immediately thereafter "federal"

Page 5, line 6, replace "6" with "7"

Page 5, line 19, replace "7" with "8"

Page 5, line 25, replace "8" with "9"

Page 5, line 27, replace "9" with "10"

Page 5, replace lines 29 and 30 with:

- "11. a. A taxpayer is entitled to a credit against the tax imposed by this section for any unused federal credit for prior year minimum tax. "Unused federal credit for prior year minimum tax" means the amount of the federal credit for prior year minimum tax attributable to federal alternative minimum tax included in the taxpayer's federal income tax liability for purposes of this section for taxable years beginning before January 1, 2001, reduced by the total amount of the federal credit for prior year minimum tax claimed on the taxpayer's federal income tax return for all taxable years beginning after December 31, 2000.
- b. The credit under this subsection is equal to fourteen percent of the portion of the unused federal credit for prior year minimum tax claimed on the taxpayer's federal income tax return and may not exceed the taxpayer's tax liability under this section for the taxable year. For a nonresident taxpayer, the credit determined under this subsection must be multiplied by the percentage that the nonresident taxpayer's North Dakota adjusted gross income is of the nonresident's federal adjusted gross income.
- c. The credit under this subsection is not allowed for taxable years beginning after December 31, 2004.
- 12. a. At the election of an individual taxpayer engaged in a farming business, the tax imposed by subsection 2 for the taxable year must be equal to the sum of the following:

- (1) The tax computed under subsection 2 on North Dakota taxable income reduced by elected farm income.
 - (2) The increase in tax imposed by subsection 2 which would result if North Dakota taxable income for each of the three prior taxable years were increased by an amount equal to one-third of the elected farm income. For purposes of applying this paragraph to taxable years beginning before January 1, 2001, the increase in tax must be determined by recomputing the tax in the manner prescribed by the tax commissioner.
 - b. For purposes of this subsection, "elected farm income" means that portion of North Dakota taxable income for the taxable year which is elected farm income as defined in section 1301 of the Internal Revenue Code of 1986 [26 U.S.C. 1301], as amended.
 - c. The reduction in North Dakota taxable income under this subsection must be taken into account for purposes of making an election under this subsection for any subsequent taxable year.
 - d. The tax commissioner may prescribe rules, procedures, or guidelines necessary to administer this subsection.
13. The tax commissioner may prescribe tax tables, to be used in computing the tax according to subsection 2, if the amounts of the tax tables are based on the tax rates set forth in subsection 2. If prescribed by the tax commissioner, the tables must be followed by every individual, estate, or trust determining a tax under this section.

SECTION 2. AMENDMENT. Section 57-38-31.1 of the North Dakota Century Code is amended and reenacted as follows:

57-38-31.1. Composite returns. Partnerships and subchapter S corporations may file a composite return on behalf of nonresident individual partners or shareholders in the manner prescribed by the tax commissioner. Any amount of tax paid by the partnership or subchapter S corporation on the composite return on behalf of a nonresident partner or shareholder constitutes a credit on the North Dakota return of the nonresident individual on whose behalf the tax was paid by the partnership or subchapter S corporation. Any return filed by a partnership or subchapter S corporation under this section is considered as the return of the nonresident individual partner or shareholder on whose behalf the return is filed. The tax under this section must be computed by multiplying the aggregate of the shares of North Dakota taxable income reportable to North Dakota by the partners or shareholders included in the composite return by the highest federal tax rate for individuals times the tax rate imposed under section 57-38-30.3 five and fifty-four hundredths percent.

SECTION 3. REPEAL. Section 57-38-34.1 of the North Dakota Century Code is repealed."

Page 6, remove lines 1 through 9

Renumber accordingly

Engrossed HB 1399 was placed on the Seventh order of business on the calendar.

CONSIDERATION OF CONFERENCE COMMITTEE REPORT

REP. CARLSON MOVED that the conference committee report on Engrossed HB 1399 as printed on HJ pages 1365-1368 be adopted, which motion prevailed on a voice vote.

Engrossed HB 1399, as amended, was placed on the Eleventh order.

SECOND READING OF HOUSE BILL

HB 1399: A BILL for an Act to amend and reenact sections 57-38-30.3 and 57-38-31.1 of the North Dakota Century Code, relating to determination of income tax liability on the short-form state income tax return and the filing of composite returns; to repeal section 57-38-34.1 of the North Dakota Century Code, relating to an optional card income tax return; and to provide an effective date.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 70 YEAS, 25 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

YEAS: Aarsvold; Belter; Boucher; Brandenburg; Brekke; Brusegaard; Carlson; Clark; Delmore; Devlin; Disrud; Dosch; Drovdal; Eckre; Ekstrom; Fairfield; Froseth; Galvin; Glassheim; Grande; Grumbo; Gunter; Haas; Hanson; Hawken; Herbel; Huether; Johnson, D.; Johnson, N.; Kasper; Keiser; Kelsch, R.; Kelsh, S.; Kempenich; Kingsbury; Klein, F.; Klein, M.; Klemin; Kliniske; Koppang; Koppelman; Kroeber; Lloyd; Maragos; Meier; Metcalf; Monson; Mueller; Nelson; Nicholas; Nottestad; Onstad; Pietsch; Pollert; Porter; Price; Renner; Sandvig; Schmidt; Severson; Skarphol; Svedjan; Thoreson, B.; Thoreson, L.; Tieman; Warner; Wentz; Wikenheiser; Winrich; Speaker Bernstein

NAYS: Bellew; Berg; Boehm; Byerly; Carlisle; Cleary; DeKrey; Delzer; Froelich; Grosz; Gulleon; Hunskor; Lemieux; Mahoney; Martinson; Niemeier; Rennerfeldt; Ruby; Solberg; Thorpe; Timm; Wald; Weiler; Weisz; Wrangham

ABSENT AND NOT VOTING: Jensen; Kerzman; Kretschmar

Engrossed HB 1399 passed and the title was agreed to.

MOTION

REP. MONSON MOVED that the House stand in recess until 5:00 p.m., which motion prevailed.

THE HOUSE RECONVENED pursuant to recess taken, with Speaker Bernstein presiding.

REPORT OF CONFERENCE COMMITTEE

HB 1006, as engrossed: Your conference committee (Sens. Kringstad, Schobinger, Tallackson and Reps. Skarphol, Byerly, Huether) recommends that the **HOUSE ACCEDE** to the Senate amendments on HJ page 1258 and place HB 1006 on the Seventh order.

Engrossed HB 1006 was placed on the Seventh order of business on the calendar.

CONSIDERATION OF CONFERENCE COMMITTEE REPORT

REP. SKARPHOL MOVED that the conference committee report on Engrossed HB 1006 as printed on HJ page 1258 be adopted, which motion prevailed on a voice vote.

Engrossed HB 1006, as amended, was placed on the Eleventh order.

SECOND READING OF HOUSE BILL

HB 1006: A BILL for an Act to provide an appropriation for defraying the expenses of the office of the state tax commissioner and for payment of state reimbursement under the homestead tax credit; to provide for allocations to the multistate tax compact fund; and to amend and reenact section 57-01-04 of the North Dakota Century Code, relating to the salary of the state tax commissioner.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 94 YEAS, 0 NAYS, 0 EXCUSED, 4 ABSENT AND NOT VOTING.

YEAS: Aarsvold; Bellew; Belter; Berg; Boehm; Boucher; Brandenburg; Brekke; Brusegaard; Byerly; Carlisle; Carlson; Clark; Cleary; DeKrey; Delmore; Delzer; Devlin; Disrud; Dosch; Drovdal; Eckre; Ekstrom; Fairfield; Froelich; Gulleon; Gunter; Haas; Hanson; Hawken; Herbel; Huether; Hunskor; Johnson, D.; Johnson, N.; Kasper; Keiser; Kelsch, R.; Kelsh, S.; Kempenich; Kingsbury; Klein, F.; Klein, M.; Klemin; Kliniske; Koppang; Kretschmar; Kroeber; Lemieux; Lloyd; Mahoney; Maragos; Martinson; Meier; Metcalf; Monson; Mueller; Nelson; Nicholas; Niemeier; Nottestad; Onstad; Pietsch; Pollert; Porter; Price; Renner; Rennerfeldt; Ruby; Schmidt; Severson; Skarphol; Solberg; Svedjan; Thoreson, B.; Thoreson, L.; Thorpe; Tieman; Timm; Wald; Warner; Weiler; Weisz; Wentz; Wikenheiser; Winrich; Wrangham; Speaker Bernstein

ABSENT AND NOT VOTING: Jensen; Kerzman; Koppelman; Sandvig

Engrossed HB 1006 passed and the title was agreed to.

REPORT OF CONFERENCE COMMITTEE

HB 1045, as engrossed: Your conference committee (Sens. Wanzek, Cook, O'Connell and Reps. Hawken, Nelson, Hunsakor) recommends that the **SENATE RECEDE** from the Senate amendments on HJ pages 1417-1418, adopt further amendments as follows, and place HB 1045 on the Seventh order:

That the Senate recede from its amendments as printed on pages 1417 and 1418 of the House Journal and page 1259 of the Senate Journal and that Engrossed House Bill No. 1045 be amended as follows:

Page 33, replace lines 7 through 19 with:

1. "Administrator" means an individual who is employed by the board of a public school district primarily for administration of a school or schools of the district and who devotes at least fifty percent of the individual's time in any one year to the duties of administration of the school or schools of the district.
2. "Negotiating unit" means:
 - a. A group of administrators having common interests, common problems, a common employer, or a history of common representation, which warrants that group being represented by a single representative organization in negotiations with the board of a school district; or
 - b. A group of teachers having common interests, common problems, a common employer, or a history of common representation, which warrants that group being represented by a single representative organization in negotiations with the board of a school district."

Page 33, replace lines 24 through 27 with:

5. "Teacher" means a public school employee licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board and employed primarily as a classroom teacher."

Page 34, replace lines 25 through 31 with "of a representative organization of the individual's choosing for the purpose of representation on matters of employer-employee relations.

2. An individual employed as an administrator may form, join, and participate in the activities of a representative organization of the individual's choosing for the purpose of representation on matters of employer-employee relations.
3. Any individual employed as a teacher or as an administrator may refuse to join or participate in the activities of a representative organization.

15.1-16-08. Representative organization - Negotiating unit - Right to negotiate. A representative organization has the right to represent a negotiating unit in matters of employee relations with the board of a school district. Any teacher or administrator has the right to present the individual's views directly to the board."

Page 35, remove lines 1 through 3

Page 35, line 7, remove "individuals employed by the"

Page 35, line 8, remove "public school district as" and replace "individuals" with "administrators"

Page 35, line 9, remove "as administrators"

Page 35, line 12, replace "group that filed the description" with "teachers or the administrators within the unit"

Page 35, replace lines 15 through 31 with:

- "1. a. If an organization is interested in representing a group of teachers or a group of administrators, the organization may file with the board of a school district a petition asserting that the organization represents a majority of the teachers or the administrators included within a negotiating unit.
 - b. The petition must be accompanied by evidence substantiating the assertion contained in it.
 - c. Within ten days after receiving the petition, the board of the school district shall post notice of its intent to consider the petition in each school wherein the members of the negotiating unit are employed.
 - d. No sooner than ten nor later than twenty days after posting the notice of intent to consider the petition, the board shall investigate the petition, determine the question of representation, and post notice of its determination in each school wherein the members of the negotiating unit are employed.
 - e. If the petition is not contested, the board shall recognize the petitioner as the representative organization of the negotiating unit, unless it finds in good faith that there is a reasonable doubt the representation exists.
2. If any organization has an interest in representing a group of teachers or a group of administrators and wishes to contest the claim of representation made in the petition under subsection 1, the contesting organization must file with the board of the school district a petition containing a written statement of contest together with substantiating evidence, within ten days from the date on which the board posted the notice of intent to consider the original petition.
 3. If the board of a school district fails to make and post notice of its determination or if the board's determination has been contested, the board shall call an election to determine the question of representation not sooner than twenty nor later than thirty days after the posting of the notice of intent to consider the original petition.
 4. If the board of a school district receives a petition that is signed by at least twenty-five percent of the members of the negotiating unit and which calls for an election to determine the question of representation, the board shall call the election.
 5. The election must be conducted in the manner agreed to by the interested parties. If the interested parties cannot reach an agreement, the election must be conducted in the manner determined by the education factfinding commission under its rules.
 6. Once a representative organization has been selected, its authority to represent the negotiating unit continues for at least one year from the date of the selection.

15.1-16-12. Representative organization - Payroll deduction - Dues. If an individual who is employed as a teacher, and who is a member of a representative organization as defined in this chapter, signs a petition requesting that dues for the representative organization be deducted from the individual's regular paycheck, the board of the school district shall comply with the petition. Nothing in this section may be interpreted to mean that the dues of a nonmember must be deducted in that manner."

Page 36, remove lines 1 through 25

Page 37, replace lines 6 through 9 with "or terminate the contract on its annual anniversary date by giving notice of its desire to modify or terminate the contract to the other party not less than sixty days before the annual anniversary date."

Page 38, replace lines 10 through 12 with:

- "b. Consider the report and recommendation of its factfinder and, after any further investigation the commission elects to perform, make its findings and issue a recommendation."

Page 38, line 15, replace "Between ten and" with "No sooner than ten nor later than"

Page 50, line 30, after the second "a" insert "basic"

Renumber accordingly

Engrossed HB 1045 was placed on the Seventh order of business on the calendar.

CONSIDERATION OF CONFERENCE COMMITTEE REPORT

REP. HAWKEN MOVED that the conference committee report on Engrossed HB 1045 as printed on HJ pages 1417-1418 be adopted, which motion prevailed on a voice vote.

Engrossed HB 1045, as amended, was placed on the Eleventh order.

SECOND READING OF HOUSE BILL

HB 1045: A BILL for an Act to create and enact chapters 15.1-13, 15.1-14, 15.1-15, 15.1-16, 15.1-17, 15.1-18, 15.1-20, 15.1-21, 15.1-22, 15.1-23, 15.1-27, 15.1-28, 15.1-29, 15.1-30, 15.1-31, 15.1-32, 15.1-33, 15.1-34, 15.1-35, and 15.1-36 of the North Dakota Century Code, relating to elementary and secondary education; to repeal chapters 15-21.1, 15-29, 15-34.1, 15-34.2, 15-35, 15-36, 15-37, 15-38, 15-38.1, 15-38.2, 15-40.1, 15-40.2, 15-40.3, 15-41, 15-43, 15-44, 15-45, 15-47, 15-54, 15-59, 15-59.2, 15-59.3, and 15-60 of the North Dakota Century Code, relating to elementary and secondary education provisions addressed in the creation of North Dakota Century Code title 15.1; to provide a penalty; and to provide a continuing appropriation.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 94 YEAS, 0 NAYS, 0 EXCUSED, 4 ABSENT AND NOT VOTING.

YEAS: Aarsvold; Bellew; Belter; Berg; Boehm; Boucher; Brandenburg; Brekke; Brusegaard; Byerly; Carlisle; Carlson; Clark; Cleary; DeKrey; Delmore; Delzer; Devlin; Disrud; Dosch; Drovdal; Eckre; Ekstrom; Fairfield; Froelich; Froseth; Galvin; Glassheim; Grande; Grosz; Grumbo; Gulleston; Gunter; Haas; Hanson; Hawken; Herbel; Huether; Hunskor; Johnson, D.; Johnson, N.; Kasper; Keiser; Kelsch, R.; Kelsh, S.; Kempenich; Kingsbury; Klein, F.; Klein, M.; Klemin; Kliniske; Koppang; Kretschmar; Kroeber; Lemieux; Lloyd; Mahoney; Maragos; Martinson; Meier; Metcalf; Monson; Mueller; Nelson; Nicholas; Niemeier; Nottestad; Onstad; Pietsch; Pollert; Porter; Price; Renner; Rennerfeldt; Ruby; Schmidt; Severson; Skarphol; Solberg; Svedjan; Thoreson, B.; Thoreson, L.; Thorpe; Tieman; Timm; Wald; Warner; Weiler; Weisz; Wentz; Wikenheiser; Winrich; Wrangham; Speaker Bernstein

ABSENT AND NOT VOTING: Jensen; Kerzman; Koppelman; Sandvig

Engrossed HB 1045 passed and the title was agreed to.

REPORT OF CONFERENCE COMMITTEE

HB 1344, as engrossed: Your conference committee (Sens. Freborg, O'Connell, Wanzek and Reps. R. Kelsch, Brusegaard, Hanson) recommends that the **SENATE RECEDE** from the Senate amendments on HJ pages 1537-1543 and place HB 1344 on the Seventh order.

Engrossed HB 1344 was placed on the Seventh order of business on the calendar.

CONSIDERATION OF CONFERENCE COMMITTEE REPORT

REP. R. KELSCH MOVED that the conference committee report on Engrossed HB 1344 as printed on HJ pages 1537-1543 be adopted.

REQUEST

REP. DROVDAL REQUESTED a recorded roll call vote on the motion to adopt the conference committee report on Engrossed HB 1344, which request was granted.

ROLL CALL

The question being on the motion to adopt the conference committee report on Engrossed HB 1344, the roll was called and there were 79 YEAS, 15 NAYS, 0 EXCUSED, 4 ABSENT AND NOT VOTING.

YEAS: Aarsvold; Bellew; Belter; Boehm; Boucher; Brandenburg; Brekke; Brusegaard; Carlisle; Clark; Cleary; Delmore; Devlin; Disrud; Dosch; Eckre; Ekstrom; Fairfield; Froelich; Froseth; Galvin; Glassheim; Grumbo; Gulleson; Gunter; Haas; Hanson; Hawken; Herbel; Huether; Hunsakor; Johnson, D.; Johnson, N.; Kasper; Keiser; Kelsch, R.; Kelsh, S.; Kingsbury; Klein, F.; Klein, M.; Klemin; Kliniske; Koppang; Kretschmar; Kroeber; Lemieux; Lloyd; Mahoney; Maragos; Martinson; Meier; Metcalf; Monson; Mueller; Nelson; Nicholas; Niemeier; Nottestad; Onstad; Pietsch; Pollert; Porter; Price; Renner; Rennerfeldt; Schmidt; Severson; Solberg; Svedjan; Thoreson, B.; Thoreson, L.; Thorpe; Tieman; Timm; Warner; Weiler; Wentz; Wikenheiser; Winrich

NAYS: Berg; Byerly; Carlson; DeKrey; Delzer; Drovdal; Grande; Grosz; Kempenich; Ruby; Skarphol; Wald; Weisz; Wrangham; Speaker Bernstein

ABSENT AND NOT VOTING: Jensen; Kerzman; Koppelman; Sandvig

The conference committee report on Engrossed HB 1344 was adopted.

SIGNING OF BILLS AND RESOLUTIONS

The Speaker signed the following enrolled bills and resolution: HB 1200, HB 1386, HB 1479, HCR 3072.

MESSAGE TO THE SENATE FROM THE HOUSE (MARK L. JOHNSON, CHIEF CLERK)

MR. PRESIDENT: The Speaker has signed and your signature is respectfully requested on: HB 1200, HB 1386, HB 1479, HCR 3072.

SIGNING OF BILLS AND RESOLUTIONS

The Speaker signed the following enrolled bills: SB 2002, SB 2004, SB 2022, SB 2229, SB 2380.

MESSAGE TO THE SENATE FROM THE HOUSE (MARK L. JOHNSON, CHIEF CLERK)

MR. PRESIDENT: The Speaker has signed: SB 2002, SB 2004, SB 2022, SB 2229, SB 2380.

SIGNING OF BILLS AND RESOLUTIONS

The Speaker signed the following enrolled bills: HB 1301, HB 1326.

MESSAGE TO THE SENATE FROM THE HOUSE (MARK L. JOHNSON, CHIEF CLERK)

MR. PRESIDENT: The Speaker has signed and your signature is respectfully requested on: HB 1301, HB 1326.

SIGNING OF BILLS AND RESOLUTIONS

The Speaker signed the following enrolled bills: SB 2019, SB 2021, SB 2032, SB 2361.

MESSAGE TO THE SENATE FROM THE HOUSE (MARK L. JOHNSON, CHIEF CLERK)

MR. PRESIDENT: The Speaker has signed: SB 2019, SB 2021, SB 2032, SB 2361.

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)

MR. SPEAKER: The President has signed and your signature is respectfully requested on: SB 2019, SB 2021, SB 2032, SB 2361.

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)

MR. SPEAKER: The President has signed: HB 1200, HB 1386, HB 1479, HCR 3072.

DELIVERY OF ENROLLED BILLS AND RESOLUTIONS

The following bills were delivered to the Governor for approval on April 26, 2001: HB 1200, HB 1386, HB 1479.

DELIVERY OF ENROLLED BILLS AND RESOLUTIONS

The following resolution was delivered to the Secretary of State for filing on April 26, 2001: HCR 3072.

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)

MR. SPEAKER: The Senate has adopted the conference committee report, subsequently passed, and the emergency clause carried: SB 2088.

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)

MR. SPEAKER: The Senate has adopted the conference committee report, subsequently passed, and the emergency clause carried: HB 1012.

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)

MR. SPEAKER: The President has appointed Sen. Kringstad to replace Sen. Nething on the Conference Committee on SB 2011.

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)

MR. SPEAKER: The President has appointed Sen. Cook to replace Sen. Freborg on the Conference Committee on HB 1013.

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)

MR. SPEAKER: The President has appointed Sen. Stenehjem to replace Sen. Kringstad on the Conference Committee on SB 2011.

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)

MR. SPEAKER: The Senate has adopted the conference committee report, subsequently passed, and the emergency clause carried: HB 1020.

MESSAGE TO THE SENATE FROM THE HOUSE (MARK L. JOHNSON, CHIEF CLERK)

MR. PRESIDENT: The House has adopted the conference committee report and subsequently passed: HB 1006, HB 1045.

MESSAGE TO THE SENATE FROM THE HOUSE (MARK L. JOHNSON, CHIEF CLERK)

MR. PRESIDENT: The House has adopted the conference committee report, subsequently passed, and the emergency clause carried: HB 1020.

MESSAGE TO THE SENATE FROM THE HOUSE (MARK L. JOHNSON, CHIEF CLERK)

MR. PRESIDENT: The House has adopted the conference committee report, subsequently passed, and the emergency clause carried: SB 2088.

MESSAGE TO THE SENATE FROM THE HOUSE (MARK L. JOHNSON, CHIEF CLERK)

MR. PRESIDENT: The House has adopted the conference committee report and subsequently passed: HB 1399.

MESSAGE TO THE SENATE FROM THE HOUSE (MARK L. JOHNSON, CHIEF CLERK)

MR. PRESIDENT: The House has concurred in the Senate amendments and subsequently passed: HB 1321.

MOTION

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

MOTION

REP. MONSON MOVED that the House be on the Fifth, Twelfth, and Sixteenth orders of business and at the conclusion of those orders, the House stand adjourned until 8:30 a.m., Friday, April 27, 2001, which motion prevailed.

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

MARK L. JOHNSON, Chief Clerk

