

## JOURNAL OF THE HOUSE

## Fiftieth Legislative Assembly

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## FIFTY-NINTH DAY

Bismarck, March 31, 1987

The House convened at 9:00 a.m., with Speaker Kloubec presiding.

The prayer was offered by Bob Nordvall, Charity Lutheran Church, Bismarck, North Dakota.

## ROLL CALL

The roll was called and all Representatives were present, except Representatives P. DeMers, Peterson, and Starke.

A quorum was declared by the Speaker.

## CORRECTION AND REVISION OF THE JOURNAL

MR. SPEAKER: Your Committee on Correction and Revision of the Journal has carefully examined the Journal of the Fifty-eighth Day and finds the same to be correct.

REP. THOMPSON, Chairman

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

LEGISLATIVE CHAPLAINCY SCHEDULE  
HOUSE OF REPRESENTATIVES

DATE	APRIL	CHURCH
1	N.E. McCoy, Jamestown	
2	Bob Schuller	St. Alexius Medical Center
3	Jeff Hoppe	Riverwood Baptist Fellowship
6	Tom Shaffer	First Baptist
7	Douglas Roberts	United Church of Christ
8	Gary van Hunnick	
9	Paul Krohn	Shepherd of the Valley
10	Bob Lynne	Good Shepherd Lutheran
13	Hart Edmonds	First Presbyterian
14	Dick Sinner, Fargo	
15	Marie Hunkler	St. Vincent's Nursing Home
16	Lynn S. Smith-Roberts	Unitarian Universalist Fellowship
17	Grael Gannon	Presbyterian Reformed
20	Ed Johnson	United Tribes Educational Technical Center
21	Keith Odney	Lutheran Church of the Cross
22	Forrest Erickson	Grace Lutheran Brethren Church
23	Open	
24	M.D. Wolff	Bismarck Baptist
27	Joanne M. Spears	Society of Friends
28	Open	

29 Burnie Kunz . . . . . Medcenter One  
30 Open . . . . .

MESSAGES TO THE SENATE  
HOUSE CHAMBER

MR. PRESIDENT: I have the honor to inform you that the Speaker has appointed as a conference committee to act with a like committee from the Senate on:

SB 2404: Reps. Wentz, Sorensen, Ulmer

SB 2510: Reps. Larson, Gates, Schneider

ROY GILBREATH, Chief Clerk

HOUSE CHAMBER

MR. PRESIDENT: I have the honor to transmit herewith the following which the House has passed and your favorable consideration is requested on:

HCR 3091, HCR 3092, HCR 3093

ROY GILBREATH, Chief Clerk

HOUSE CHAMBER

MR. PRESIDENT: I have the honor to return herewith the following which the House has amended and subsequently passed:

SB 2004, SB 2012, SB 2015, SB 2029, SB 2099, SB 2127,  
SB 2507

ROY GILBREATH, Chief Clerk

HOUSE CHAMBER

MR. PRESIDENT: I have the honor to return herewith the following which the House has amended and subsequently failed to pass:

SB 2344

ROY GILBREATH, Chief Clerk

MOTION

REP. STRINDEN MOVED that the House stand in recess until 10:30 a.m., which motion prevailed.

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

REPORT OF CONFERENCE COMMITTEE

MR. SPEAKER: Your Conference Committee to which was referred HB 1365 has had the same under consideration and recommends that the SENATE RECEDE from its amendments as found on pages 1661-1662 of the House Journal and that HB 1365 be amended as follows:

On page 1, line 20, after the period insert the following: "In determining the location of the water treatment plant or plants, the commission may only consider alternatives that will provide treated water to all potential using entities"

at a cost not to exceed the cost of water from the single treatment facility originally provided for in the engineering preliminary design final report for the southwest pipeline project, state water commission project no. 1736 dated September 1982. Any existing water treatment facility that is to be used in the final pipeline design must be made available to the state in operable condition free of deferred maintenance costs and at a cost that does not exceed the actual depreciation, maintenance, and operation costs of that facility. A water treatment facility is in operable condition if, at the time it becomes part of the southwest pipeline project, it is meeting the needs of its current users. Capital improvements necessary for upgrading any existing water treatment facility to be used in the southwest pipeline project must be borne by the state water commission."

And renumber the lines, sections, and pages accordingly

For the Senate: Sens. Maixner, Krauter, David

For the House: Reps. Goetz, A. Olson, W. Williams

HB 1365 was placed on the Seventh order of business on the calendar for the succeeding legislative day.

#### MESSAGES FROM THE SENATE SENATE CHAMBER

MR. SPEAKER: I have the honor to transmit herewith the following which the Senate has passed and your favorable consideration is requested on:

SB 2553

PERRY GROTEBERG, Secretary

#### SENATE CHAMBER

MR. SPEAKER: I have the honor to return herewith the following which the President Pro Tem has signed:

HB 1150, HB 1204, HB 1332, HB 1342, HB 1390, HB 1408,  
HB 1411, HB 1525, HB 1551, HB 1631, HCR 3003, HCR 3062,  
HCR 3081

PERRY GROTEBERG, Secretary

#### SENATE CHAMBER

MR. SPEAKER: I have the honor to transmit herewith the following which the President Pro Tem has signed and your signature is respectfully requested:

SB 2044, SB 2173, SB 2184, SB 2191, SB 2244, SB 2328,  
SB 2391, SB 2444, SB 2445, SB 2458, SB 2484, SB 2490,  
SB 2526

PERRY GROTEBERG, Secretary

## SENATE CHAMBER

MR. SPEAKER: I have the honor to return herewith the following which the Senate has passed unchanged:

HB 1216, HB 1457, HB 1572, HB 1593, HB 1606, HB 1621,  
HB 1629, HB 1648, HCR 3027, HCR 3035, HCR 3067, HCR 3068  
PERRY GROTEBERG, Secretary

## SENATE CHAMBER

MR. SPEAKER: I have the honor to return herewith the following which the Senate has failed to pass:

HB 1110, HB 1532, HB 1569, HB 1623, HB 1628, HB 1669,  
HCR 3046, HCR 3065, HCR 3071  
PERRY GROTEBERG, Secretary

## SENATE CHAMBER

MR. SPEAKER: I have the honor to return herewith the following which the Senate has amended and failed to pass:

HB 1319, HB 1323

PERRY GROTEBERG, Secretary

## SENATE CHAMBER

MR. SPEAKER: I have the honor return herewith HB 1156, HB 1174, HB 1183, HB 1329, HB 1373, HB 1615, HB 1675, HCR 3028, HCR 3057, and HCR 3073 which the Senate has amended and subsequently passed:

## SENATE AMENDMENTS TO HB 1156

On page 1, line 19, delete the words "in all probability" and insert in lieu thereof the word "probably"

On page 5, line 1, delete the words ", and the action by the state agency in"

On page 5, delete line 2

On page 5, line 3, delete the words "foster care is final and binding on the county agency"

And renumber the lines, sections, and pages accordingly

## SENATE AMENDMENTS TO HB 1174

On page 2, line 14, after the word "~~scholarship~~" insert the words "scholarships or", remove the overstrike over the word "~~loans~~", and delete the word "scholarships"

On page 2, line 24, after the word "scholarships" insert the words "or loans"

And renumber the lines, sections, and pages accordingly

## SENATE AMENDMENTS TO ENGROSSED HB 1183

- On page 1 of the engrossed bill, line 1, delete the word and numerals "section 50-10.1-01,"
- On page 1 of the engrossed bill, line 3, delete the word "definitions"
- On page 1 of the engrossed bill, line 4, delete the word "and"
- On page 1 of the engrossed bill, delete lines 7 through 26
- On page 2 of the engrossed bill, line 4, remove the overstrike over the word "~~administrative~~"
- On page 2 of the engrossed bill, line 5, remove the overstrike over the word "~~actions~~" and delete the words "any action or decision"
- On page 2 of the engrossed bill, line 17, remove the overstrike over the words "~~administrative actions which affect~~" and delete the word "any"
- On page 2, line 18, delete the words "action or decision that adversely affects"

And renumber the lines, sections, and pages accordingly

## SENATE AMENDMENTS TO HB 1329

- On page 1, line 20, after the word "placement" insert the words "by a licensed child placement agency"
- On page 1, line 23, after the word "adoption" insert the words "by a licensed child placement agency"
- On page 2, line 2, after the word "adoption" insert the words "by a licensed child placement agency"
- On page 2, line 6, after the word "placement" insert the words "by a licensed child placement agency"

And renumber the lines, sections, and pages accordingly

## SENATE AMENDMENTS TO ENGROSSED HB 1373

- On page 1 of the engrossed bill, line 13, delete the words "at least" and delete the words "a mechanism for reaching" and insert in lieu thereof the words "the ability to reach" and delete the comma
- On page 1 of the engrossed bill, line 14, delete the words "at all times,"
- On page 1 of the engrossed bill, line 15, delete the word "The"
- On page 1 of the engrossed bill, delete lines 16 and 17

On page 1 of the engrossed bill, line 18, delete the words "of the procedure"

And renumber the lines, sections, and pages accordingly

SENATE AMENDMENTS TO ENGROSSED HB 1615

On page 1 of the engrossed bill, line 17, after the period insert the words "For purposes of this chapter, "municipality" means a city with a population of ten thousand or less."

On page 4 of the engrossed bill, line 9, delete the words "a majority" and insert in lieu thereof the words "one-third or more"

On page 4 of the engrossed bill, line 13, delete the words "a majority" and insert in lieu thereof the words "one-third or more"

On page 4 of the engrossed bill, line 19, delete the words "a majority" and insert in lieu thereof the words "one-third or more"

On page 7 of the engrossed bill, line 11, delete the words "by forty percent or more"

And renumber the lines, sections, and pages accordingly

SENATE AMENDMENTS TO HB 1675

On page 1, line 3, delete the words "; and to repeal subdivision j of"

On page 1, delete line 4

On page 1, line 5, delete the words "relating to school district mill levies for asbestos abatement"

On page 1, line 10, delete the word "Asbestos" and insert in lieu thereof the words "Multiyear asbestos"

On page 2, delete lines 6 through 8

And renumber the lines, sections, and pages accordingly

SENATE AMENDMENTS TO HCR 3028

On page 2, line 24, delete the words ", the Honorable Bruce"

On page 2, line 25, delete the words "M. Van Sickle,"

On page 2, line 31, delete the words "United States" and insert in lieu thereof the words "Attorney General of North Dakota for an appropriate pleading to be submitted to the district court."

On page 2, delete lines 32 through 33

And renumber the lines, sections, and pages accordingly

SENATE AMENDMENTS TO HCR 3057

On page 1, line 1, delete the words "North Dakota Departments of" and insert in lieu thereof the words "Legislative Council"

On page 1, line 2, delete the words "Public Instruction and Human Services" and delete the word "jointly"

On page 1, line 5, delete the words "and establish a demonstration facility"

On page 1, after line 21, insert the following:

"WHEREAS, a demonstration project creating such a facility could be established with proper records maintained as to program and cost effectiveness, and the Departments of Public Instruction and Human Services could jointly plan for the administration and operation of the demonstration facility; and"

On page 1, line 28, delete the words "North Dakota Departments of Public Instruction and" and insert in lieu thereof the words "Legislative Council"

On page 1, line 29, delete the words "Human Services jointly"

On page 2, delete lines 7 through 16

And renumber the lines, sections, and pages accordingly

SENATE AMENDMENTS TO HCR 3073

On page 1, delete lines 25 through 28

And renumber the lines, sections, and pages accordingly

PERRY GROTEBERG, Secretary

SENATE CHAMBER

MR. SPEAKER: I have the honor return herewith HB 1506, HB 1557, HCR 3066, HCR 3080, and HCR 3084 which the Senate has amended and subsequently passed:

SENATE AMENDMENTS TO HB 1506

On page 1, line 1, delete the word "a" and insert in lieu thereof the word "two" and delete the word "section" and insert in lieu thereof the word "sections"

On page 1, line 4, after the word "brokers" insert the words "and to suspension or revocation of license or certificate of authority for noncompliance"

On page 2, line 24, after the word "to" insert the word "bonds,"

On page 2, line 26, after the first underscored comma insert the words "insurance on mining operations,"

On page 2, line 27, delete the word "bonds" and insert in lieu thereof the words "insurance on rural electric and electrical generating cooperatives, utilities, pipelines, and oil and gas operations"

On page 2, after line 27, insert the following new section:

"SECTION 3. A new section to chapter 26.1-39 of the 1985 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

Suspension or revocation of certificate or license for noncompliance or for acceptance of a reduced service fee. The commissioner shall suspend or revoke the certificate of authority of any insurer who intentionally fails to comply with this Act. The commissioner may suspend or revoke the license of any resident agent or broker who agrees to accept or who accepts a service fee in an amount less than the service fee provided for in section 2 of this Act, and may suspend or revoke the license of any nonresident agent who seeks to induce or who induces any resident agent into accepting a service fee in an amount less than the service fee provided for in section 2 of this Act."

And renumber the lines, sections, and pages accordingly

SENATE AMENDMENTS TO ENGROSSED HB 1557

On page 1 of the engrossed bill, line 1, after the words "A BILL" delete the remainder of the engrossed bill and insert in lieu thereof the following: "for an Act to create and enact a new chapter to title 12.1 of the North Dakota Century Code, relating to criminal offenses committed against unborn children; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. A new chapter to title 12.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

Definitions. As used in this Act:

1. "Abortion" means the termination of human pregnancy with an intention other than to produce a live birth or to remove a dead embryo or fetus.
2. "Person" does not include the pregnant woman.



3. "Unborn child" means the conceived but not yet born offspring of a human being, which, but for the action of the actor would beyond a reasonable doubt have subsequently been born alive.

**Murder of an unborn child.**

1. A person is guilty of murder of an unborn child, a class AA felony, if the person:
  - a. Intentionally or knowingly causes the death of an unborn child;
  - b. Causes the death of an unborn child under circumstances manifesting extreme indifference to the value of the life of the unborn child or the pregnant woman; or
  - c. Acting either alone or with one or more other persons, commits or attempts to commit treason, robbery, burglary, kidnapping, felonious restraint, arson, gross sexual imposition, or escape and, in the course of and in furtherance of such crime or of immediate flight therefrom, the person, or another participant, if any, causes the death of an unborn child; except that in any prosecution under this subsection in which the defendant was not the only participant in the underlying crime, it is an affirmative defense that the defendant:
    - (1) Did not commit the homicidal act or in any way solicit, command, induce, procure, counsel, or aid the commission thereof; and
    - (2) Was not armed with a firearm, destructive device, dangerous weapon, or other weapon that under the circumstances indicated a readiness to inflict serious bodily injury; and
    - (3) Reasonably believed that no other participant was armed with such a weapon; and
    - (4) Reasonably believed that no other participant intended to engage in conduct likely to result in death or serious bodily injury.

Subdivisions a and b are inapplicable in the circumstances covered by subsection 2.

2. A person is guilty of murder of an unborn child, a class A felony, if the person causes the death of an unborn child under circumstances which would be class AA murder, except that the person causes the death of the unborn child under the influence of extreme emotional disturbance for which there is reasonable excuse. The reasonableness of the excuse must be determined from the viewpoint of a person in the person's situation under the circumstances as the person believes them to be. An extreme emotional disturbance is excusable, within the meaning of this subsection only, if it is occasioned by substantial provocation, or a serious event, or situation for which the offender was not culpably responsible.

**Manslaughter of an unborn child.** A person is guilty of manslaughter of an unborn child, a class B felony, if the person recklessly causes the death of an unborn child.

**Negligent homicide of an unborn child.** A person is guilty of negligent homicide of an unborn child, a class C felony, if the person negligently causes the death of an unborn child.

**Aggravated assault of an unborn child.** A person is guilty of assault of an unborn child, a class C felony, if that person willfully assaults a pregnant woman and inflicts serious bodily injury on an unborn child.

**Assault of an unborn child.** A person is guilty of assault of an unborn child, a class A misdemeanor, if the person willfully assaults a pregnant woman and inflicts bodily injury on an unborn child.

**Exception.** This Act does not apply to acts or omissions that cause the death or injury of an unborn child if those acts or omissions are committed during an abortion performed by or under the supervision of a licensed physician to which the pregnant woman has consented, nor does it apply to acts or omissions that are committed pursuant to usual and customary standards of medical practice during diagnostic or therapeutic treatment performed by or under the supervision of a licensed physician.

**Other convictions not prohibited.** A prosecution for or conviction under this Act is not a bar to conviction of or punishment for any other offense committed by a person as part of the same conduct."

And renumber the lines, sections, and pages accordingly

## SENATE AMENDMENTS TO HCR 3066

On page 1, line 12, delete the words and numeral "over 20 million" and insert in lieu thereof the word "many", delete the second comma, and delete the word ", or"

On page 1, line 13, delete the words and numeral "approximately 13 percent of the population,"

And renumber the lines, sections, and pages accordingly

## SENATE AMENDMENTS TO HCR 3080

On page 1, line 3, delete the word ", chronically" and insert in lieu thereof the words "and the chemically"

And renumber of lines, sections, and pages accordingly

## SENATE AMENDMENTS TO ENGROSSED HCR 3084

On page 1 of the engrossed resolution, line 17, after the word "rates" insert the words ", provide preadmission assessment,"

And renumber the lines, sections, and pages accordingly

PERRY GROTEBERG, Secretary

## RECONSIDERATION OF A VETOED MEASURE

REP. STRINDEN MOVED that HB 1044 be reconsidered pursuant to Article V, Section 9 of the Constitution of the State of North Dakota for the purpose of overriding the Governor's veto, which motion prevailed.

HB 1044: A BILL for an Act to create and enact two new chapters to title 35 of the North Dakota Century Code, relating to statutory agricultural liens; to amend and reenact sections 11-18-14, 11-29-24, 35-21-01, and subsection 9 of section 41-09-28 of the North Dakota Century Code, relating to duties of the county register of deeds, county seed, feed, and fuel liens, release of liens, and to protection of buyers of goods; and to repeal chapters 35-07, 35-08, 35-09, and 35-10 of the North Dakota Century Code, relating to threshing or drying liens, crop production liens, motor fuel liens, fertilizer, farm chemicals, or seed liens, and sugar beet production liens.

## ROLL CALL

The question being on the passage of the bill, as enrolled, over the Governor's veto, the roll was called and there were 19 YEAS, 86 NAYS, 1 ABSENT AND NOT VOTING.

YEAS: Cleveland; Gates; Goetz; Hausauer, R.; Koland; Kretschmar; Kuchera; Moore; Olsen, D.; Olson, A.; Peterson; Rydell; Shaft; Shaw; Shide; Sorensen; Strinden; Tollefson; Wald

**NAYS:** Aas; Almlie; Anderson; Belter; Berg, G.; Berg, R.; Brokaw; Christman; Dalrymple; DeMers, J.; DeMers, P.; Dorso; Dotzenrod; Enget; Flaagan; Frey; Gerntholz; Gorman; Graba; Gunsch; Halmrast; Hamerlik; Hanson, L.; Hanson, O.; Haugen; Haugland; Hausauer, A.; Hill; Hoffner; Hokana; Kelly; Kent; Kingsbury; Klundt; Knell; Knudson; Kolbo; Lang; Larson; Laughlin; Lautenschlager; Linderman; Lindgren; Marks; Martin; Melby; Mertens; Meyer; Murphy; Myrdal; Nelson, C.; Nelson, J.; Nicholas; Nowatzki; Oban; O'Connell; Olson, V.; Opedahl; O'Shea; Payne; Rice; Riehl; Scherber; Schindler; Schneider; Shockman; Skjerven; Smette; Solberg; Starke; Stofferahn; Thompson; Tokach; Tomac; Trautman; Ulmer; Vander Vorst; Watne; Wentz; Whalen; Wilkie; Williams, A.; Williams, C.; Williams, W.; Winkelman; Speaker Kloubec

**ABSENT AND NOT VOTING:** Martinson

The House sustained the Governor's veto on HB 1044.

#### FIRST READING OF SENATE BILL

**SB 2553:** A BILL for an Act to amend and reenact sections 23-09-01, 23-09-16, and 23-09-17 of the North Dakota Century Code, relating to hotels, lodgingshouses, restaurants, and boardinghouses and to limited restaurant licenses.

Was read the first time and referred to the Committee on Industry, Business and Labor.

#### MOTION

**REP. STRINDEN MOVED** that SB 2393 and SB 2078, which are on the Fourteenth order, and SB 2079, after action taken on the Sixth order, be placed at the top of the calendar, which motion prevailed.

#### SECOND READING OF SENATE BILLS

**SB 2393:** A BILL for an Act to create and enact a new section to chapter 57-62 of the North Dakota Century Code, relating to creation of the oil and gas development impact fund; to amend and reenact subsection 1 of section 57-51-15 of the North Dakota Century Code, relating to apportionment and use of the proceeds of the oil and gas gross production tax; and to provide an appropriation.

Which has been read.

#### ROLL CALL

The question being on the final passage of the bill, the roll was called and there were 37 YEAS, 67 NAYS, 2 ABSENT AND NOT VOTING.

**YEAS:** Aas; Anderson; Enget; Goetz; Gunsch; Hanson, O.; Haugen; Hill; Hokana; Kingsbury; Knell; Knudson; Koland; Kolbo; Kretschmar; Martin; Melby; Murphy;

Nelson, J.; O'Connell; Opedahl; O'Shea; Rice; Riehl;  
Schindler; Smette; Solberg; Sorensen; Stofferahn;  
Tollefson; Trautman; Vander Vorst; Wald; Watne; Whalen;  
Williams, A.; Williams, C.

**NAYS:** Almlie; Belter; Berg, G.; Berg, R.; Brokaw;  
Christman; Cleveland; Dalrymple; DeMers, J.;  
DeMers, P.; Dorso; Dotzenrod; Flaagan; Frey; Gates;  
Gerntholz; Gorman; Graba; Halmrast; Hamerlik;  
Hanson, L.; Haugland; Hausauer, A.; Hausauer, R.;  
Hoffner; Kelly; Kent; Klundt; Kuchera; Lang; Larson;  
Laughlin; Lautenschlager; Linderman; Lindgren; Marks;  
Martinson; Mertens; Moore; Myrdal; Nelson, C.;  
Nicholas; Nowatzki; Oban; Olsen, D.; Olson, A.; Payne;  
Peterson; Rydell; Scherber; Schneider; Shaft; Shaw;  
Shide; Shockman; Skjerven; Starke; Strinden; Thompson;  
Tokach; Tomac; Ulmer; Wentz; Wilkie; Williams, W.;  
Winkelman; Speaker Kloubec

**ABSENT AND NOT VOTING:** Meyer; Olson, V.

SB 2393 was declared lost.

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**SB 2078:** A BILL for an Act to amend and reenact section 57-51.1-03 of the North Dakota Century Code, relating to removal of the royalty owners' exemption from the oil extraction tax.

Which has been read.

#### ROLL CALL

The question being on the final passage of the bill, the roll was called and there were 95 YEAS, 11 NAYS, 0 ABSENT AND NOT VOTING.

**YEAS:** Aas; Almlie; Belter; Berg, G.; Berg, R.; Christman;  
Cleveland; Dalrymple; DeMers, J.; DeMers, P.; Dorso;  
Dotzenrod; Flaagan; Frey; Gates; Gerntholz; Goetz;  
Gorman; Graba; Gunsch; Halmrast; Hamerlik; Hanson, L.;  
Hanson, O.; Haugen; Haugland; Hausauer, A.;  
Hausauer, R.; Hill; Hoffner; Hokana; Kelly; Kent;  
Kingsbury; Klundt; Knell; Koland; Kretschmar; Lang;  
Larson; Laughlin; Lautenschlager; Linderman; Lindgren;  
Marks; Martinson; Mertens; Meyer; Moore; Myrdal;  
Nelson, C.; Nelson, J.; Nicholas; Nowatzki; Oban;  
O'Connell; Olsen, D.; Olson, A.; Olson, V.; Opedahl;  
O'Shea; Payne; Peterson; Rice; Riehl; Rydell; Scherber;  
Schindler; Schneider; Shaft; Shaw; Shide; Skjerven;  
Smette; Sorensen; Starke; Stofferahn; Strinden;  
Thompson; Tokach; Tollefson; Tomac; Trautman; Ulmer;  
Vander Vorst; Wald; Watne; Wentz; Whalen; Wilkie;  
Williams, A.; Williams, C.; Williams, W.; Winkelman;  
Speaker Kloubec

NAYS: Anderson; Brokaw; Enget; Knudson; Kolbo; Kuchera;  
Martin; Melby; Murphy; Shockman; Solberg

ABSENT AND NOT VOTING: None

SB 2078 passed and the title was agreed to.

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#### SIXTH ORDER OF BUSINESS

REP. A. HAUSAUER MOVED that the amendments to SB 2079 as recommended by the Committee on Finance and Taxation as printed on pages 2336-2337 of the House Journal be adopted, and when so adopted, recommends the same DO PASS, which motion prevailed.

SB 2079, as amended, was placed on the Fourteenth order of business on the calendar.

#### SECOND READING OF SENATE BILL

SB 2079: A BILL for an Act to create and enact a new section to chapter 57-51.1 of the North Dakota Century Code, relating to the establishment of an oil extraction trust fund and provision of grants or loans through the Bank of North Dakota; to amend and reenact sections 57-51.1-01, 57-51.1-02, and 57-51.1-03 of the North Dakota Century Code, relating to the definition of "average price," the rate of the oil extraction tax, and exemption from the oil extraction tax until the costs of drilling are recovered; and to declare an emergency.

Which has been read.

#### ROLL CALL

The question being on the final passage of the bill, as amended, the roll was called and there were 101 YEAS, 5 NAYS, 0 ABSENT AND NOT VOTING.

YEAS: Aas; Almlie; Anderson; Belter; Berg, G.; Berg, R.; Christman; Cleveland; Dalrymple; DeMers, J.; DeMers, P.; Dorso; Dotzenrod; Enget; Flaagan; Frey; Gates; Gerntholz; Goetz; Gorman; Graba; Gunsch; Halmrast; Hamerlik; Hanson, L.; Hanson, O.; Haugen; Haugland; Hausauer, A.; Hausauer, R.; Hill; Hoffner; Hokana; Kelly; Kent; Kingsbury; Knell; Knudson; Koland; Kolbo; Kretschmar; Kuchera; Lang; Larson; Laughlin; Lautenschlager; Linderman; Lindgren; Marks; Martin; Martinson; Melby; Mertens; Meyer; Moore; Murphy; Myrdal; Nelson, C.; Nelson, J.; Nicholas; Nowatzki; O'Connell; Olsen, D.; Olson, A.; Olson, V.; Opedahl; O'Shea; Payne; Peterson; Rice; Riehl; Rydell; Scherber; Schindler; Schneider; Shaft; Shaw; Shide; Shockman; Skjerven; Smette; Solberg; Sorensen; Stofferahn; Strinden; Thompson; Tokach; Tollefson; Tomac; Trautman; Vander Vorst; Wald; Watne; Wentz; Whalen; Wilkie;

Williams, A.; Williams, C.; Williams, W.; Winkelman;  
Speaker Kloubec

**NAYS:** Brokaw; Klundt; Oban; Starke; Ulmer

**ABSENT AND NOT VOTING:** None

SB 2079 passed, the title was agreed to, and the emergency clause carried.

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#### SIGNING OF BILLS AND RESOLUTIONS

**THE CHIEF CLERK ANNOUNCED** that the Speaker signed the following:

SB 2044, SB 2173, SB 2184, SB 2191, SB 2244, SB 2328,  
SB 2391, SB 2444, SB 2445, SB 2458, SB 2484, SB 2490,  
SB 2526

**ROY GILBREATH, Chief Clerk**

#### DELIVERY OF ENROLLED BILLS

**THE SPEAKER ANNOUNCED** that the following bills were delivered to the Governor for his approval at the hour of 10:00 a.m., March 31, 1987:

HB 1150, HB 1204, HB 1332, HB 1342, HB 1390, HB 1408,  
HB 1411, HB 1525, HB 1551, HB 1631

#### DELIVERY OF ENROLLED RESOLUTIONS

**THE SPEAKER ANNOUNCED** that the following resolutions were delivered to the Secretary of State for his filing at the hour of 10:00 a.m., March 31, 1987:

HCR 3003, HCR 3062, HCR 3081

#### MESSAGE TO THE SENATE HOUSE CHAMBER

**MR. PRESIDENT:** I have the honor to return herewith the following which the Speaker has signed:

SB 2044, SB 2173, SB 2184, SB 2191, SB 2244, SB 2328,  
SB 2391, SB 2444, SB 2445, SB 2458, SB 2484, SB 2490,  
SB 2526

**ROY GILBREATH, Chief Clerk**

#### MESSAGE FROM THE SENATE SENATE CHAMBER

**MR. SPEAKER:** I have the honor to return herewith the following which the President Pro Tem has signed:

HB 1011, HB 1012, HB 1013, HB 1024, HB 1051, HB 1080,  
HB 1222, HB 1227, HB 1288, HB 1325, HB 1340, HB 1356,

HB 1463, HB 1529, HB 1534, HB 1584, HB 1604, HB 1665,  
HCR 3076

PERRY GROTEBERG, Secretary

#### MOTION

REP. STRINDEN MOVED that SB 2023 be placed at the top of the calendar, which motion prevailed.

#### SECOND READING OF SENATE BILL

SB 2023: A BILL for an Act making an appropriation for defraying the expenses of the centennial commission of the state of North Dakota; and to declare an emergency.

Which has been read.

#### ROLL CALL

The question being on the final passage of the bill, as amended, the roll was called and there were 81 YEAS, 23 NAYS, 2 ABSENT AND NOT VOTING.

YEAS: Almlie; Berg, G.; Brokaw; Cleveland; DeMers, J.; DeMers, P.; Enget; Flaagan; Frey; Gates; Gerntholz; Goetz; Gorman; Graba; Halmrast; Hamerlik; Hanson, L.; Haugland; Hausauer, A.; Hausauer, R.; Hill; Hoffner; Hokana; Kelly; Kent; Kingsbury; Klundt; Kolbo; Kretschmar; Larson; Laughlin; Lautenschlager; Linderman; Lindgren; Marks; Martin; Martinson; Mertens; Meyer; Myrdal; Nelson, C.; Nelson, J.; Nicholas; Nowatzki; Oban; O'Connell; Olsen, D.; Olson, A.; Olson, V.; Opedahl; O'Shea; Payne; Peterson; Rice; Riehl; Rydell; Scherber; Schneider; Shaft; Shaw; Shide; Shockman; Skjerven; Smette; Solberg; Starke; Stofferahn; Strinden; Tollefson; Tomac; Trautman; Ulmer; Vander Vorst; Wald; Watne; Wentz; Wilkie; Williams, A.; Williams, C.; Williams, W.; Speaker Kloubec

NAYS: Aas; Anderson; Belter; Christman; Dalrymple; Dorso; Dotzenrod; Gunsch; Hanson, O.; Haugen; Knell; Knudson; Koland; Lang; Melby; Moore; Murphy; Schindler; Sorensen; Thompson; Tokach; Whalen; Winkelman

ABSENT AND NOT VOTING: Berg, R.; Kuchera

SB 2023 passed, the title was agreed to, and the emergency clause carried.

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#### REQUEST

REP. PETERSON REQUESTED that the Analysis of the 1987-89 Biennium Centennial Commission as prepared by the Legislative Council staff for Reps. G. Berg and Rydell be printed in the Journal, which request was granted.



ANALYSIS OF THE 1987-89 BIENNIUM CENTENNIAL COMMISSION  
APPROPRIATION AS CONTAINED IN THE AMENDED ENGROSSED SB 2023

<u>Salaries and Wages</u>	<u>Total 1987-89 Budgeted Amount</u>
Executive Director	\$ 67,050
Assistant Director - Communications	44,200
Assistant Director - Administration	39,600
Administrative Assistant	28,800
New Planner/Coordinator	48,000
Fringe Benefits for Above Salaries	49,204
Total Salaries and Wages	\$276,854
<u>Operating Expenses</u>	<u>15,646</u>
Total General Fund Appropriation	\$292,500

**CONSIDERATION OF MESSAGE FROM THE SENATE**

REP. KRETSCHMAR MOVED that the House do concur in the Senate amendments to HB 1221 as printed on pages 2368-2369 of the House Journal, which motion prevailed.

**MOTION**

REP. STRINDEN MOVED that the rules be suspended, that HB 1221 be deemed properly reengrossed and placed on the calendar, as amended, for second reading and final passage, which motion prevailed.

**SECOND READING OF HOUSE BILL**

HB 1221: A BILL for an Act to amend and reenact section 12.1-20-01 and subsection 1 of section 12.1-20-09 of the North Dakota Century Code, relating to the "marital rape" defense for all sexual assaults, the ninety-day statute of limitations for both adult and minor victims, and adultery.

Which has been read.

**ROLL CALL**

The question being on the final passage of the bill, as amended, the roll was called and there were 94 YEAS, 6 NAYS, 6 ABSENT AND NOT VOTING.

YEAS: Aas; Almlie; Anderson; Belter; Berg, G.; Brokaw; Christman; Cleveland; Dalrymple; DeMers, J.; DeMers, P.; Dorso; Dotzenrod; Enget; Flaagan; Frey; Gates; Gertholz; Goetz; Gorman; Graba; Halmrast; Hamerlik; Hanson, L.; Hanson, O.; Haugland; Hausauer, A.; Hausauer, R.; Hill; Hoffner; Hokana; Kelly; Klundt; Knell; Knudson; Koland; Kolbo; Kretschmar; Kuchera; Lang; Larson; Laughlin; Lautenschlager; Linderman; Lindgren; Marks; Martin; Martinson; Mertens; Meyer; Moore; Murphy; Myrdal; Nelson, C.; Nelson, J.; Nicholas; Nowatzki; Oban; O'Connell; Olsen, D.; Olson, A.; Opedahl; O'Shea;

Payne; Peterson; Rice; Riehl; Rydell; Scherber;  
 Schindler; Schneider; Shaft; Shaw; Shide; Shockman;  
 Skjerven; Smette; Solberg; Sorensen; Starke;  
 Stofferahn; Strinden; Thompson; Trautman; Ulmer;  
 Vander Vorst; Watne; Wentz; Wilkie; Williams, A.;  
 Williams, C.; Williams, W.; Winkelman; Speaker Kloubec

**NAYS:** Gunsch; Kingsbury; Melby; Tokach; Tomac; Whalen

**ABSENT AND NOT VOTING:** Berg, R.; Haugen; Kent;  
 Olson, V.; Tollefson; Wald

HB 1221 passed and the title was agreed to.

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#### CONSIDERATION OF MESSAGE FROM THE SENATE

**REP. WHALEN MOVED** that the House do concur in the Senate amendments to HB 1373, which motion prevailed.

#### MOTION

**REP. STRINDEN MOVED** that the rules be suspended, that HB 1373 be deemed properly engrossed and placed on the calendar, as amended, for second reading and final passage, which motion prevailed.

#### SECOND READING OF HOUSE BILL

**HB 1373:** A BILL for an Act to create and enact a new section to chapter 23-10 of the North Dakota Century Code, relating to a requirement for a procedure to respond to emergencies and complaints in certain mobile home parks.

Which has been read.

#### ROLL CALL

The question being on the final passage of the bill, as amended, the roll was called and there were 80 YEAS, 21 NAYS, 5 ABSENT AND NOT VOTING.

**YEAS:** Aas; Almlie; Berg, G.; Brokaw; Christman;  
 Cleveland; DeMers, J.; DeMers, P.; Dorso; Dotzenrod;  
 Enget; Flaagan; Frey; Gerntholz; Goetz; Gorman; Graba;  
 Halmrast; Hamerlik; Hanson, L.; Haugland; Hausauer, A.;  
 Hausauer, R.; Hill; Hoffner; Hokana; Kelly; Klundt;  
 Kolbo; Kretschmar; Kuchera; Lang; Larson; Laughlin;  
 Lautenschlager; Linderman; Lindgren; Marks; Martinson;  
 Mertens; Meyer; Moore; Myrdal; Nelson, C.; Nelson, J.;  
 Nicholas; Nowatzki; Oban; O'Connell; Olsen, D.;  
 Olson, A.; Opedahl; O'Shea; Payne; Rice; Riehl; Rydell;  
 Scherber; Schneider; Shaft; Shaw; Shockman; Skjerven;  
 Solberg; Sorensen; Starke; Stofferahn; Strinden;  
 Tollefson; Trautman; Ulmer; Vander Vorst; Watne; Wentz;  
 Wilkie; Williams, A.; Williams, C.; Williams, W.;  
 Winkelman; Speaker Kloubec

NAYS: Anderson; Belter; Dalrymple; Gates; Gunsch;  
Hanson, O.; Kent; Kingsbury; Knell; Knudson; Koland;  
Martin; Melby; Murphy; Schindler; Shide; Smette;  
Thompson; Tokach; Tomac; Whalen

ABSENT AND NOT VOTING: Berg, R.; Haugen; Olson, V.;  
Peterson; Wald

HB 1373 passed and the title was agreed to.

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#### CONSIDERATION OF MESSAGE FROM THE SENATE

REP. MOORE MOVED that the House do not concur in the Senate amendments to HB 1615 and that a conference committee be appointed to meet with a like committee from the Senate, which motion prevailed.

#### APPOINTMENT OF A CONFERENCE COMMITTEE

THE SPEAKER APPOINTED as a Conference Committee on HB 1615:

Reps. Moore, Gorman, Wilkie

#### CONSIDERATION OF MESSAGE FROM THE SENATE

REP. MARTINSON MOVED that the House do concur in the Senate amendments to HCR 3028, which motion prevailed.

#### MOTION

REP. STRINDEN MOVED that the rules be suspended, that HCR 3028 be deemed properly reengrossed and placed on the calendar, as amended, for second reading and final passage, which motion prevailed.

#### SECOND READING OF HOUSE CONCURRENT RESOLUTION

HCR 3028: A concurrent resolution urging the United States District Court for the District of North Dakota to recognize the good faith efforts of the state of North Dakota in attempting to comply with the district court's order concerning the deinstitutionalization of developmentally disabled persons and to modify the order to allow the state to emphasize the individual needs of developmentally disabled persons rather than institution population levels.

Which has been read.

The question being on the adoption of the resolution, as amended.

HCR 3028 was declared adopted on a voice vote.

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## APPOINTMENT OF CONFERENCE COMMITTEE

THE SPEAKER ANNOUNCED the following appointment to a Conference Committee on SB 2080:

Reps. Belter, Anderson, Marks

## MOTION

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

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

## REPORTS OF STANDING COMMITTEE

MR. SPEAKER: Your Committee on Appropriations to which was referred HB 1678 has had the same under consideration and recommends by a vote of 13 YEAS, 10 NAYS, 0 ABSENT AND NOT VOTING that the same DO NOT PASS.

REP. PETERSON, Chairman

HB 1678 was placed on the Eleventh order of business on the calendar for the succeeding legislative day.

MR. SPEAKER: Your Committee on Appropriations to which was rereferred SB 2183 has had the same under consideration and recommends by a vote of 23 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING that the same DO PASS.

REP. PETERSON, Chairman

SB 2183 was placed on the Fourteenth order of business on the calendar for the succeeding legislative day.

## REPORT OF CONFERENCE COMMITTEE

MR. SPEAKER: Your Conference Committee to which was referred Engrossed HB 1355 has had the same under consideration and recommends that the HOUSE ACCEDE to the amendments as found on page 1924 of the House Journal and that Engrossed HB 1355 be further amended as follows:

On page 1 of the engrossed bill, line 1, delete the word "sections" and insert in lieu thereof the word "section" and after the comma insert the words and numerals "subsection 4 of section 26.1-25-04, section"

On page 1 of the engrossed bill, line 4, after the word "policies" insert the word ", rates,"

On page 1 of the engrossed bill, after line 22, insert the following new section:

"SECTION 2. AMENDMENT. Subsection 4 of section 26.1-25-04 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. Subject to the exceptions specified in subsection 5, each filing ~~shall~~ must be on file for a waiting period of ~~thirty~~ sixty days before it becomes effective. The period may be extended by the commissioner for an additional period not to exceed fifteen days if the commissioner gives written notice within the waiting period to the insurer or rating organization which made the filing that the commissioner needs the additional time for the consideration of the filing. Upon written application by the insurer or rating organization, the commissioner may authorize a filing which the commissioner has reviewed to become effective before the expiration of the waiting period or any extension thereof. A filing is deemed to meet the requirements of this chapter unless disapproved by the commissioner within the waiting period or any extension thereof."

And renumber the lines, sections, and pages accordingly

For the Senate: Sens. Schoenwald, Keller, Todd

For the House: Reps. Larson, Shide, Dotzenrod

Engrossed HB 1355 was placed on the Seventh order of business on the calendar for the succeeding legislative day.

#### REPORT OF STANDING COMMITTEE

MR. SPEAKER: Your Committee on State and Federal Government to which was referred HB 1682 has had the same under consideration and recommends by a vote of 13 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING that the same DO PASS.

REP. MARTINSON, Chairman

HB 1682 was placed on the Eleventh order of business on the calendar for the succeeding legislative day.

#### REPORT OF CONFERENCE COMMITTEE

MR. SPEAKER: Your Conference Committee to which was referred HB 1081 has had the same under consideration and recommends that the HOUSE ACCEDE to the amendments as found on page 1762 of the House Journal.

For the Senate: Sens. D. Meyer, Axtman, Lodoen

For the House: Reps. Christman, Trautman, Marks

HB 1081 was placed on the Seventh order of business on the calendar for the succeeding legislative day.

MESSAGE FROM THE SENATE  
SENATE CHAMBER

MR. SPEAKER: I have the honor to inform you that the President Pro Tem has appointed as a conference committee to act with a like committee from the House on:

HB 1009: Sens. Redlin, Shea, Lips  
HB 1131: Sens. Hilken, Schoenwald, Wright  
HB 1161: Sens. Heinrich, Peterson, Kelly  
HB 1242: Sens. J. Meyer, Stenehjem, Holmberg  
HB 1266: Sens. Lashkowitz, J. Meyer, Stenehjem  
HB 1350: Sens. Keller, Schoenwald, Mutch  
HB 1416: Sens. Mathern, Kelsh, Freborg

PERRY GROTEBERG, Secretary

## MOTIONS

REP. STRINDEN MOVED that the rules be suspended, and that after action taken on the Sixth order, that all bills and resolutions be placed on the Eleventh and Fourteenth orders respectively for second reading and final passage, which motion prevailed.

REP. GOETZ MOVED that the House stand in recess until 2:00 p.m., which motion prevailed.

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

MESSAGES FROM THE SENATE  
SENATE CHAMBER

MR. SPEAKER: I have the honor to transmit herewith the following which the President Pro Tem has signed and your signature is respectfully requested:

SB 2025, SB 2033, SB 2045, SB 2053, SB 2064, SB 2110,  
SB 2316, SB 2406, SB 2435, SB 2439, SB 2486, SB 2503,  
SCR 4043

PERRY GROTEBERG, Secretary

## SENATE CHAMBER

MR. SPEAKER: I have the honor to return herewith the following which the President Pro Tem has signed:

HB 1577

PERRY GROTEBERG, Secretary

## DELIVERY OF ENROLLED RESOLUTION

THE SPEAKER ANNOUNCED that the following resolution was delivered to the Secretary of State for his filing at the hour of 1:10 p.m., March 31, 1987:

HCR 3076

## DELIVERY OF ENROLLED BILLS

THE SPEAKER ANNOUNCED that the following bills were delivered to the Governor for his approval at the hour of 1:07 p.m., March 31, 1987:

HB 1011, HB 1012, HB 1013, HB 1024, HB 1051, HB 1080,  
HB 1222, HB 1227, HB 1288, HB 1325, HB 1340, HB 1356,  
HB 1463, HB 1529, HB 1534, HB 1584, HB 1604, HB 1665

## MESSAGES TO THE SENATE

## HOUSE CHAMBER

MR. PRESIDENT: I have the honor to inform you that the House has concurred in the Senate amendments to HB 1221, HB 1373, and HCR 3028 and subsequently passed the same but has refused to concur in the Senate amendments to HB 1615 and the Speaker has appointed as a conference committee to act with a like committee from the Senate on:

HB 1615: Reps. Moore, Gorman, Wilkie

ROY GILBREATH, Chief Clerk

## HOUSE CHAMBER

MR. PRESIDENT: I have the honor to inform you that the Speaker has appointed as a conference committee to act with a like committee from the Senate on:

SB 2080: Reps. Belter, Anderson, Marks

ROY GILBREATH, Chief Clerk

## SIGNING OF BILLS AND RESOLUTIONS

THE CHIEF CLERK ANNOUNCED that the Speaker signed the following:

HB 1030, HB 1187, HB 1208, HB 1272, HB 1278, HB 1289,  
HB 1406, HB 1424, HB 1426, HB 1504, HB 1597

ROY GILBREATH, Chief Clerk

## MESSAGE TO THE SENATE

## HOUSE CHAMBER

MR. PRESIDENT: I have the honor to transmit herewith the following which the Speaker has signed and your signature is respectfully requested:

HB 1030, HB 1187, HB 1208, HB 1272, HB 1278, HB 1289,  
HB 1406, HB 1424, HB 1426, HB 1504, HB 1597

ROY GILBREATH, Chief Clerk

## MESSAGE FROM THE SENATE

## SENATE CHAMBER

MR. SPEAKER: I have the honor to inform you that the Senate has concurred in the House amendments to SB 2014, SB 2019, SB 2039, SB 2115, SB 2277, SB 2279, SB 2336, SB 2409, and SB 2546 and subsequently passed the same, but has refused to concur in the House amendments to SB 2008, SB 2031, SB 2294, SB 2303, and

SB 2387 and the President Pro Tem has appointed as a conference committee to act with a like committee from the House on:

SB 2008: Sens. Waldera, Stromme, Lips  
SB 2031: Sens. Wogsland, Mushik, Thane  
SB 2294: Sens. Maxson, Peterson, Nalewaja  
SB 2303: Sens. Mathern, Heinrich, Nalewaja  
SB 2387: Sens. Dotzenrod, Satrom, Ingstad

PERRY GROTEBERG, Secretary

#### HOUSE MEMORIAL SERVICE

REP. STRINDEN MOVED that the House be on a Special Order of Business, which motion prevailed.

REP. STRINDEN MOVED that a committee of two be appointed to escort family members and guests into the Chamber, which motion prevailed.

SPEAKER KLOUBEC APPOINTED Reps. Graba and Gates to such committee and family members and guests were escorted into the Chamber.

Invocation: Rev. James Pomeroy  
Epworth United Methodist Church  
Valley City, North Dakota

Musical Selection: Valley City Troubadours -  
"Holy, Holy, Holy"

#### FIRST READING OF A HOUSE MEMORIAL RESOLUTION

Committee on Memorial Resolutions introduced:

HMR A: A memorial resolution for deceased members of the House of Representatives of the State of North Dakota.

Was read the first time.

#### MOTION

REP. STRINDEN MOVED that HMR A be printed in the Journal, and placed on the calendar for second reading and final passage, which motion prevailed.

Committee on Memorial Resolutions introduced:

#### HOUSE MEMORIAL RESOLUTION NO. A

A memorial resolution for deceased members of the House of Representatives of the State of North Dakota.

WHEREAS, God in His Wisdom has seen fit to summon to eternal rest His servants and our former colleagues:

Harry Bergman, who served in the 38th and 39th Legislative Assemblies, from the 10th District, died December 5, 1986.



Lawrence Bowman, who served in the 37th through the 39th Legislative Assemblies, from the 39th District, died March 12, 1985.

Howard O. Bye, who served in the 33rd through the 37th Legislative Assemblies, from the 5th District, died October 11, 1986.

Wilfred A. Collette, who served in the 27th through the 33rd, and in the 35th through the 39th Legislative Assemblies, from the 4th District, died September 7, 1986.

Russell Duncan, who served in the 39th and 40th Legislative Assemblies, from the 21st District, died February 24, 1986.

Robert T. Gray, who served in the 26th and 33rd Legislative Assemblies, from the 30th District, died November 30, 1986.

Edward Haag, who served in the 26th through the 29th Legislative Assemblies, from the 36th District, died June 27, 1986.

Leslie Gullickson, who served in the 48th and 49th Legislative Assemblies, from the 53rd District, died October 3, 1985.

Eugene C. Laske, who served in the 43rd and 44th Legislative Assemblies, from the 26th District, died August 29, 1986.

Fern E. Lee, who served in the 40th, and the 42nd through the 46th Legislative Assemblies, from the 7th District, died July 5, 1986.

Oscar Lee, who served in the 31st and 32nd Legislative Assemblies, from the 45th District, died September 26, 1985.

Peter Lipsiea, who served in the 45th through the 49th Legislative Assemblies, from the 20th District, died June 21, 1985.

Ruth Meiers, who served in the 44th through the 48th Legislative Assemblies, from the 4th District, died March 19, 1987.

Reuben L. Metz, who served in the 44th and 45th, and the 47th Legislative Assemblies, from the 28th District, died February 17, 1987.

William Nelson, who served in the 27th and 28th Legislative Assemblies, from the 30th District, died February 15, 1986.

Manfred R. Ohnstad, who served in the 27th through the 30th Legislative Assemblies, from the 10th District, died February 25, 1987.

Harold Ostrem, who served in the 35th through the 37th Legislative Assemblies, from the 42nd District, died June 18, 1986.

Carl H. Pewe, who served in the 25th Legislative Assembly, from the 32nd District, died July 12, 1985.

George H. Saumur, who served in the 24th through the 34th Legislative Assemblies, from the 6th District, died December 21, 1986.

Robert L. Schoenwald, who served in the 39th Legislative Assembly, from the 29th District, died July 22, 1985.

Owen Solberg, who served in the 35th Legislative Assembly, from the 19th District, died December 4, 1986.

Benhard J. Wolf, who served in the 27th through the 37th Legislative Assemblies, from the 36th District, died December 4, 1986.

Milton R. Young, who served in the 23rd Legislative Assembly, from the 24th District, died May 31, 1983.

WHEREAS, today, we, as members of the House of Representatives of the 50th Legislative Assembly of the State of North Dakota, pause to mourn the passing of our former colleagues, and to honor their memories; and

WHEREAS, these legislators rendered outstanding service to the people of the state by their contribution to their fellowmen and their communities;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF NORTH DAKOTA:

That we express our keen sorrow on their passing and our appreciation, on behalf of the people of North Dakota, of the loyal and devoted service of these our former colleagues; and

BE IT FURTHER RESOLVED, that for the perpetuation of their memory this token of respect and sympathy by their successors in trust be printed in the Journal of the House of Representatives and that duly enrolled copies of this resolution be presented by the Secretary of State to the surviving families of these deceased representatives.

#### SECOND READING OF A HOUSE MEMORIAL RESOLUTION

HMR A: A memorial resolution for deceased members of the House of Representatives of the State of North Dakota.

Which has been read.

The question being on the final adoption of the resolution.

HMR A was declared adopted on a voice vote.

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REP. SHAFT INTRODUCED the family members of former Representatives who were present.

Musical Selection: Valley City Troubadours - "Rise Again"  
Soloists were: Chuck Schelkoph,  
Lawrence Rydquist, Robert Hanson

The Assembly was invited to join in the singing of "God Bless America".

Benediction: Rev. James Pomeroy

#### MOTION

REP. STRINDEN MOVED that the Special Order of Business be dissolved, which motion prevailed.

#### SIGNING OF BILLS AND RESOLUTIONS

THE CHIEF CLERK ANNOUNCED that the Speaker signed the following:

HMR A

ROY GILBREATH, Chief Clerk

#### MESSAGE FROM THE SENATE SENATE CHAMBER

MR. SPEAKER: I have the honor to transmit herewith the following which the Senate has passed and your favorable consideration is requested on:

SB 2547

PERRY GROTEBERG, Secretary

#### DELIVERY OF ENROLLED BILLS

THE SPEAKER ANNOUNCED that the following bills were delivered to the Governor for his approval at the hour of 1:59 p.m., March 31, 1987:

HB 1190, HB 1577

#### MOTION

REP. STRINDEN MOVED that the House stand in recess until 3:00 p.m., which motion prevailed.

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

## APPOINTMENT OF CONFERENCE COMMITTEE

THE SPEAKER ANNOUNCED the following appointment to a Conference Committee on SB 2294:

Reps. Hamerlik, Rydell, J. DeMers

## REPORT OF CONFERENCE COMMITTEE

MR. SPEAKER: Your Conference Committee to which was referred Engrossed HB 1369 has had the same under consideration and recommends that the SENATE RECEDE from its amendments as found on page 2017 of the House Journal and that Engrossed HB 1369 be amended as follows:

On page 2 of the engrossed bill, line 30, after the word "effective" insert the words "for property upon which construction is begun after January 1, 1986,"

And renumber the lines, sections, and pages accordingly

For the Senate: Sens. Satrom, Dotzenrod, Moore

For the House: Reps. A. Hausauer, Gorman, Enget

Engrossed HB 1369 was placed on the Seventh order of business on the calendar for the succeeding legislative day.

## SIXTH ORDER OF BUSINESS

REP. PETERSON MOVED that the amendments to SB 2017 as recommended by the Committee on Appropriations as printed on pages 2399-2401 of the House Journal be adopted, and when so adopted, recommends the same DO PASS.

## REQUEST

REP. HOFFNER REQUESTED that the question of the adoption of the amendments to SB 2017 be divided to have the sections voted on separately in the following manner, which request was granted as per House Rule 316, which states that the Division of the Question must be supported by twelve members, which request was granted.

## DIVISION A

On page 1 of the engrossed bill, line 2, delete the words "weather modification" and insert in lieu thereof the words "atmospheric resource" and after the word "Dakota" insert the words "; to provide for changing the name of the North Dakota weather modification board to the North Dakota atmospheric resource board; and to amend and reenact subsection 3 of section 61-04.1-24 and sections 61-04.1-26 and 61-04.1-32 of the North Dakota Century Code, relating to mill levies for weather modification"

On page 1 of the engrossed bill, line 9, delete the words "weather modification" and insert in lieu thereof the words "atmospheric resource"

On page 1 of the engrossed bill, line 25, delete the words "weather modification" and insert in lieu thereof the words "atmospheric resource"

On page 2 of the engrossed bill, after line 4, insert the following new sections:

"SECTION 4. ATMOSPHERIC RESOURCE BOARD. The North Dakota legislative council is hereby authorized to delete, where appropriate, "weather modification board" wherever it appears in the North Dakota Century Code or in the supplements thereto and to insert in lieu of each deletion "atmospheric resource board." Such changes are to be made when any volume or supplement of the North Dakota Century Code is being reprinted. It is the intent of the legislative assembly that the atmospheric resource board shall be substituted for, shall take any action previously to be taken by, and shall perform any duties previously to be performed by the weather modification board.

SECTION 5. AMENDMENT. Subsection 3 of section 61-04.1-24 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. The following paragraph: We, the undersigned qualified electors of the (name of county), state of North Dakota, are notified hereby that the creation of the (name of county) weather modification authority and the appointment of its commissioners by the (name of county) board of county commissioners will grant unto the authority by law the power to certify to the board of county commissioners a mill levy tax not to exceed ~~four~~ seven mills upon the taxable valuation of property in said county for a weather modification fund, which tax may be levied in excess of the mill levy limit fixed by law for taxes for general county purposes and that such fund shall be used for weather modification activities in conjunction with the state of North Dakota. We, the undersigned, understand that the authority requested in this petition expires ten years after the creation of the weather modification authority, except that the board of county commissioners may by resolution create a weather modification authority and all its powers, including the power to certify a tax levy as provided by North Dakota Century Code section 61-04.1-26, for five-year periods in accordance with North Dakota Century Code section 61-04.1-27.

**SECTION 6. AMENDMENT.** Section 61-04.1-26 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**61-04.1-26.** Tax may be certified by weather modification authority. The weather modification authority may certify annually to the board of county commissioners a tax of not to exceed ~~four~~ seven mills upon the taxable valuation of the property in the county for a "weather modification" fund. The tax shall be levied by the board of county commissioners and may be levied in excess of the mill levy limit fixed by law for taxes for general county purposes. The weather modification fund shall be used only for weather modification activities in conjunction with the state of North Dakota. The tax certified by the weather modification authority is limited to the period of existence of the weather modification authority as provided for in this chapter.

**SECTION 7. AMENDMENT.** Section 61-04.1-32 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**61-04.1-32.** County budget may be waived for first appropriation - Conditions. The provisions of chapter 11-23 shall not apply to appropriations made under the provisions of this chapter. However, immediately after a weather modification authority has been created by resolution of the board of county commissioners, and after certification of a mill levy by the weather modification authority, and only for the initial or first appropriation for the authority, the county commissioners may, at their discretion, appropriate from moneys, not otherwise appropriated, in the general fund, such moneys as are necessary for carrying out the provisions of this chapter. However, the appropriation shall not exceed an amount equal to what funds would be raised by a ~~four-mill~~ seven-mill mill levy upon the taxable valuation of the property in the county."

And renumber the lines, sections, and pages accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

Weather Modification Board/Atmospheric Resource Board

A new section is added which provides for changing the name of the Weather Modification Board to the Atmospheric Resource Board.

The amendments also provide that the maximum number of mills that can be levied by counties for weather modification is increased from four to seven mills.

## DIVISION B

On page 1 of the engrossed bill, line 19, delete the numerals "2,378,104" and insert in lieu thereof the numerals "2,194,464"

On page 1 of the engrossed bill, line 20, delete the numerals "350,000" and insert in lieu thereof the numerals "533,640"

The estimated income line item is decreased by \$183,640, with a corresponding general fund increase to provide an increased level of general fund support.

The question then was on the motion to adopt Division A of the proposed amendments to SB 2017.

Division A of the proposed amendments to SB 2017 passed on a verification vote.

## REQUEST

REP. HOFFNER REQUESTED a recorded roll call vote on the motion to adopt the Division B amendments to SB 2017.

## ROLL CALL

The question then was on the motion to adopt Division B of the proposed amendments to SB 2017, the roll was called and there were 63 YEAS, 42 NAYS, 1 ABSENT AND NOT VOTING.

YEAS: Aas; Almlie; Anderson; Berg, G.; Berg, R.; Cleveland; Enget; Frey; Gates; Goetz; Gorman; Gunsch; Hamerlik; Hanson, O.; Haugen; Haugland; Hausauer, R.; Hokana; Kelly; Kent; Kingsbury; Knell; Koland; Kolbo; Kretschmar; Kuchera; Lang; Larson; Lautenschlager; Martin; Meyer; Moore; Myrdal; Nelson, J.; Nicholas; Nowatzki; Olsen, D.; Olson, V.; Opedahl; Peterson; Rice; Riehl; Rydell; Schindler; Shaft; Shaw; Shide; Smette; Solberg; Stofferahn; Strinden; Tokach; Tollefson; Tomac; Trautman; Ulmer; Vander Vorst; Wald; Watne; Wentz; Whalen; Winkelman; Speaker Kloubec

NAYS: Belter; Brokav; Christman; Dalrymple; DeMers, J.; DeMers, P.; Dorso; Dotzenrod; Flaagan; Gerntholz; Graba; Halmrast; Hanson, L.; Hausauer, A.; Hill; Hoffner; Klundt; Knudson; Laughlin; Linderman; Lindgren; Marks; Martinson; Melby; Mertens; Murphy; Nelson, C.; Oban; O'Connell; Olson, A.; O'Shea; Payne; Scherber; Schneider; Shockman; Skjerven; Sorensen; Thompson; Wilkie; Williams, A.; Williams, C.; Williams, W.

ABSENT AND NOT VOTING: Starke

Division B of the proposed amendments to SB 2017 passed.

The question then was on the adoption of the amendments to SB 2017, including Division A, and including Division B with title amended appropriately, and lines, sections, and pages renumbered accordingly.

The amendments to SB 2017, including Division A, and including Division B were adopted.

#### MOTION

REP. STRINDEN MOVED that the rules be suspended, that SB 2017 be deemed properly reengrossed and placed on the Fourteenth order for second reading and final passage, which motion prevailed.

#### SECOND READING OF SENATE BILL

SB 2017: A BILL for an Act making an appropriation for defraying the expenses of the atmospheric resource board of the state of North Dakota; to provide for changing the name of the North Dakota weather modification board to the North Dakota atmospheric resource board; and to amend and reenact subsection 3 of section 61-04.1-24 and sections 61-04.1-26 and 61-04.1-32 of the North Dakota Century Code, relating to mill levies for weather modification.

Which has been read.

#### ROLL CALL

The question being on the final passage of the bill, as amended, the roll was called and there were 68 YEAS, 37 NAYS, 1 ABSENT AND NOT VOTING.

**YEAS:** Aas; Almlie; Anderson; Berg, G.; Berg, R.; Cleveland; Enget; Frey; Gates; Goetz; Gorman; Graba; Gunsch; Hamerlik; Hanson, O.; Haugen; Haugland; Hausauer, A.; Hausauer, R.; Hoffner; Hokana; Kelly; Kent; Kingsbury; Knell; Koland; Kolbo; Kretschmar; Kuchera; Lang; Larson; Laughlin; Lautenschlager; Lindgren; Meyer; Moore; Myrdal; Nelson, J.; Nicholas; Nowatzki; Olsen, D.; Opedahl; Peterson; Rice; Riehl; Rydell; Schindler; Schneider; Shaft; Shaw; Shide; Smette; Solberg; Stofferahn; Strinden; Tokach; Tollefson; Tomac; Trautman; Ulmer; Vander Vorst; Wald; Watne; Wentz; Whalen; Williams, W.; Winkelman; Speaker Kloubec

**NAYS:** Belter; Brokaw; Christman; Dalrymple; DeMers, J.; DeMers, P.; Dorso; Dotzenrod; Flaagan; Gerntholz; Halmrast; Hanson, L.; Hill; Klundt; Knudson; Linderman; Marks; Martin; Martinson; Melby; Mertens; Murphy; Nelson, C.; Oban; O'Connell; Olson, A.; Olson, V.; O'Shea; Payne; Scherber; Shockman; Skjerven; Sorensen; Thompson; Wilkie; Williams, A.; Williams, C.

**ABSENT AND NOT VOTING:** Starke



SB 2017 passed and the title was agreed to.

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#### SIXTH ORDER OF BUSINESS

REP. A. OLSON MOVED that the amendments to SB 2188 as recommended by a Majority of the Committee on Natural Resources as printed on page 2164 of the House Journal be adopted, and when so adopted, recommends the same DO NOT PASS, which motion prevailed.

#### REQUEST

REP. TOMAC REQUESTED that the Report of the Minority be accepted.

#### RULING BY SPEAKER

SPEAKER KLOUBEC RULED that the Minority amendments have no relation to the Majority amendments, and therefore should be voted upon by the members of the House.

#### SIXTH ORDER OF BUSINESS

REP. A. OLSON MOVED that the amendments to SB 2188 as recommended by a Minority of the Committee on Natural Resources as printed on pages 2164-2165 of the House Journal be adopted, and when so adopted, recommends the same DO PASS, which motion failed.

#### SECOND READING OF SENATE BILL

SB 2188: A BILL for an Act to establish a lignite development commission.

Which has been read.

#### ROLL CALL

The question being on the final passage of the bill, as amended, the roll was called and there were 38 YEAS, 67 NAYS, 1 ABSENT AND NOT VOTING.

YEAS: Berg, G.; Brokaw; DeMers, J.; DeMers, P.; Enget; Flaagan; Frey; Goetz; Graba; Hill; Hoffner; Hokana; Kelly; Klundt; Kolbo; Laughlin; Lautenschlager; Linderman; Mertens; Meyer; Murphy; Nelson, C.; Nelson, J.; Nowatzki; Oban; O'Connell; Opedahl; O'Shea; Riehl; Schneider; Starke; Stofferahn; Tomac; Ulmer; Watne; Wilkie; Williams, A.; Williams, W.

NAYS: Aas; Almlie; Anderson; Belter; Berg, R.; Christman; Cleveland; Dalrymple; Dorso; Dotzenrod; Gates; Gertholz; Gorman; Gunsch; Halmrast; Hamerlik; Hanson, L.; Hanson, O.; Haugen; Haugland; Hausauer, A.; Hausauer, R.; Kent; Kingsbury; Knell; Knudson; Koland; Kretschmar; Kuchera; Lang; Larson; Lindgren; Marks; Martin; Martinson; Melby; Moore; Myrdal; Nicholas; Olsen, D.; Olson, A.; Olson, V.; Payne; Rice; Rydell; Scherber; Schindler; Shaft; Shaw; Shide; Shockman;

Skjerven; Smette; Solberg; Sorensen; Strinden;  
Thompson; Tokach; Tollefson; Trautman; Vander Vorst;  
Wald; Wentz; Whalen; Williams, C.; Winkelman;  
Speaker Kloubec

ABSENT AND NOT VOTING: Peterson

SB 2188 was declared lost.

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#### SIXTH ORDER OF BUSINESS

REP. A. HAUSAUER MOVED that the amendments to SB 2286 as recommended by the Committee on Finance and Taxation as printed on page 2292 of the House Journal be adopted, and when so adopted, recommends the same DO NOT PASS, which motion prevailed.

#### MOTION

REP. STRINDEN MOVED that SB 2286, as amended, be placed at the bottom of the Fourteenth order on the calendar, which motion prevailed.

#### SIXTH ORDER OF BUSINESS

REP. A. HAUSAUER MOVED that the amendments to SB 2351 as recommended by the Committee on Finance and Taxation as printed on page 2292 of the House Journal be adopted, and when so adopted, recommends the same DO NOT PASS, which motion prevailed.

#### SECOND READING OF SENATE BILL

SB 2351: A BILL for an Act to amend and reenact sections 57-61-01 and 57-61-01.3 of the North Dakota Century Code, relating to a reduced rate of coal severance tax for coal shipped a certain distance by rail and determination of the quantity of coal upon which coal severance taxes are imposed.

Which has been read.

#### ROLL CALL

The question being on the final passage of the bill, as amended, the roll was called and there were 5 YEAS, 98 NAYS, 3 ABSENT AND NOT VOTING.

YEAS: Hill; Hoffner; Murphy; Oban; Olson, A.

NAYS: Aas; Almlie; Anderson; Belter; Berg, G.; Berg, R.; Brokaw; Christman; Cleveland; Dalrymple; DeMers, J.; DeMers, P.; Dorso; Dotzenrod; Enget; Flaagan; Frey; Gates; Gerntholz; Goetz; Gorman; Graba; Gunsch; Halmrast; Hamerlik; Hanson, L.; Hanson, O.; Haugen; Haugland; Hausauer, A.; Hausauer, R.; Hokana; Kelly; Kent; Klundt; Knell; Knudson; Koland; Kolbo; Kretschmar; Kuchera; Lang; Larson; Laughlin; Lautenschlager; Linderman; Lindgren; Marks; Martin;

Martinson; Melby; Mertens; Meyer; Moore; Myrdal; Nelson, C.; Nelson, J.; Nicholas; Nowatzki; O'Connell; Olson, V.; Opedahl; O'Shea; Payne; Rice; Riehl; Rydell; Scherber; Schindler; Schneider; Shaft; Shaw; Shide; Shockman; Skjerven; Smette; Solberg; Sorensen; Starke; Stofferahn; Strinden; Thompson; Tokach; Tollefson; Tomac; Trautman; Ulmer; Vander Vorst; Wald; Watne; Wentz; Whalen; Wilkie; Williams, A.; Williams, C.; Williams, W.; Winkelman; Speaker Kloubec

ABSENT AND NOT VOTING: Kingsbury; Olsen, D.; Peterson

SB 2351 was declared lost.

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#### SIXTH ORDER OF BUSINESS

REP. A. HAUSAUER MOVED that the amendments to SB 2550 as recommended by the Committee on Finance and Taxation as printed on pages 2263-2274 of the House Journal be adopted, and when so adopted, recommends the same BE PLACED ON THE CALENDAR WITHOUT RECOMMENDATION.

#### REQUEST

REP. SCHNEIDER REQUESTED a recorded roll call vote on the motion to adopt the proposed amendments to SB 2550, which request was granted.

#### ROLL CALL

The question being on the motion to adopt the amendments to SB 2550, the roll was called and there were 50 YEAS, 54 NAYS, 2 ABSENT AND NOT VOTING.

YEAS: Aas; Almlie; Anderson; Belter; Berg, R.; Christman; Cleveland; Dalrymple; Dorso; Gates; Gerntholz; Goetz; Gorman; Gunsch; Hamerlik; Hanson, O.; Hausauer, A.; Hausauer, R.; Kent; Knell; Knudson; Koland; Kretschmar; Kuchera; Lang; Larson; Lindgren; Martin; Moore; Myrdal; Olsen, D.; Olson, A.; Olson, V.; Payne; Rice; Schindler; Shaw; Shide; Smette; Strinden; Thompson; Tokach; Tollefson; Trautman; Vander Vorst; Wald; Wentz; Whalen; Winkelman; Speaker Kloubec

NAYS: Berg, G.; Brokaw; DeMers, J.; DeMers, P.; Dotzenrod; Enget; Flaagan; Frey; Graba; Halmrast; Hanson, L.; Haugen; Haugland; Hill; Hoffner; Hokana; Kelly; Klundt; Kolbo; Laughlin; Lautenschlager; Linderman; Marks; Martinson; Melby; Mertens; Meyer; Murphy; Nelson, C.; Nelson, J.; Nicholas; Nowatzki; Oban; O'Connell; Opedahl; O'Shea; Riehl; Rydell; Scherber; Schneider; Shaft; Shockman; Skjerven; Solberg; Sorensen; Starke; Stofferahn; Tomac; Ulmer; Watne; Wilkie; Williams, A.; Williams, C.; Williams, W.

**ABSENT AND NOT VOTING:** Kingsbury; Peterson

The motion to adopt the amendments to SB 2550 failed to pass.

**SECOND READING OF SENATE BILL**

**SB 2550:** A BILL for an Act to rescind legislative approval of mandatory income tax withholding, as approved by the fiftieth legislative assembly; to create and enact section 57-38-58.1 of the North Dakota Century Code, relating to definitions for purposes of withholding from wages of nonresident employees; to amend and reenact sections 57-38-59, 57-38-60, 57-38-60.1, 57-38-61, and 57-38-62 of the North Dakota Century Code, as contained in sections 3 through 7 of House Bill No. 1901, as approved by the fiftieth legislative assembly, relating to income tax withholding, and payment of estimated tax for income tax purposes; create and enact a new section to chapter 57-38 and a new chapter 57-38.4 of the North Dakota Century Code, relating to income tax on individuals, estates, and trusts; and to provide an effective date.

Which has been read.

**ROLL CALL**

The question being on the final passage of the bill, the roll was called and there were 0 YEAS, 105 NAYS, 1 ABSENT AND NOT VOTING.

**YEAS:** None

**NAYS:** Aas; Almlie; Anderson; Belter; Berg, G.; Berg, R.; Brokaw; Christman; Cleveland; Dalrymple; DeMers, J.; DeMers, P.; Dorso; Dotzenrod; Enget; Flaagan; Frey; Gates; Gerntholz; Goetz; Gorman; Graba; Gunsch; Halmrast; Hamerlik; Hanson, L.; Hanson, O.; Haugen; Haugland; Hausauer, A.; Hausauer, R.; Hill; Hoffner; Hokana; Kelly; Kent; Kingsbury; Klundt; Knell; Knudson; Koland; Kolbo; Kretschmar; Kuchera; Lang; Larson; Laughlin; Lautenschlager; Linderman; Lindgren; Marks; Martin; Martinson; Melby; Mertens; Meyer; Moore; Murphy; Myrdal; Nelson, C.; Nelson, J.; Nicholas; Nowatzki; Oban; O'Connell; Olsen, D.; Olson, A.; Olson, V.; Opedahl; O'Shea; Payne; Rice; Riehl; Rydell; Scherber; Schindler; Schneider; Shaft; Shaw; Shide; Shockman; Skjerven; Smette; Solberg; Sorensen; Starke; Stofferahn; Strinden; Thompson; Tokach; Tollefson; Tomac; Trautman; Ulmer; Vander Vorst; Wald; Watne; Wentz; Whalen; Wilkie; Williams, A.; Williams, C.; Williams, W.; Winkelman; Speaker Kloubec

**ABSENT AND NOT VOTING:** Peterson

SB 2550 was declared lost.

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MESSAGES FROM THE SENATE  
SENATE CHAMBER

MR. SPEAKER: I have the honor to inform you that the Senate has concurred in the House amendments to SB 2307, SB 2489, and SB 2549 and subsequently passed the same, but has refused to concur in the House amendments to SB 2480 and SB 2542, and the President Pro Tem has appointed as a conference committee to act with a like committee from the House on:

SB 2480: Sens. Langley, Schoenwald, Reiten

SB 2542: Sens. Schoenwald, Hilken, Nething

PERRY GROTEBERG, Secretary

SENATE CHAMBER

MR. SPEAKER: I have the honor to inform you that the President Pro Tem has appointed as a conference committee to act with a like committee from the House on:

HB 1038: Sens. J. Meyer, Adams, Nalewaja

HB 1062: Sens. Richard, Maixner, Ingstad

HB 1192: Sens. Satrom, Dotzenrod, Wright

PERRY GROTEBERG, Secretary

DELIVERY OF ENROLLED RESOLUTION

THE SPEAKER ANNOUNCED that the following resolution was delivered to the Secretary of State for his filing at the hour of 3:20 p.m., March 31, 1987:

HMR A

CONSIDERATION OF MESSAGE FROM THE SENATE

REP. LARSON MOVED that the House do concur in the Senate amendments to HB 1174, which motion prevailed.

MOTION

REP. STRINDEN MOVED that the rules be suspended, that HB 1174 be deemed properly reengrossed and placed on the calendar, as amended, for second reading and final passage, which motion prevailed.

SECOND READING OF HOUSE BILL

HB 1174: A BILL for an Act to provide for transfer of funds from the nursing scholarship loan fund to the board of nursing; to amend and reenact sections 43-12-26.1 and 43-12-27 of the North Dakota Century Code, relating to definitions and duties of the board of nursing in granting scholarship loans to nursing students; and to repeal sections 43-12-28, 43-12-29, 43-12-30, 43-12-31, 43-12-32, and 43-12-35 relating to qualifications of candidates, use of scholarship loans, scholarship loan payments, note requirements, collections, note cancellations, and the creation of a permanent nurses' scholarship loan fund.

Which has been read.

#### ROLL CALL

The question being on the final passage of the bill, as amended, the roll was called and there were 97 YEAS, 5 NAYS, 4 ABSENT AND NOT VOTING.

**YEAS:** Aas; Almlie; Anderson; Belter; Berg, G.; Berg, R.; Brokaw; Christman; Cleveland; Dalrymple; DeMers, J.; DeMers, P.; Dorso; Dotzenrod; Enget; Flaagan; Frey; Gates; Gerntholz; Goetz; Gorman; Graba; Halmrast; Hamerlik; Hanson, L.; Hanson, O.; Haugen; Haugland; Hausauer, A.; Hill; Hoffner; Hokana; Kelly; Kent; Klundt; Knell; Knudson; Koland; Kolbo; Kretschmar; Kuchera; Lang; Larson; Laughlin; Lautenschlager; Linderman; Lindgren; Marks; Martinson; Mertens; Meyer; Moore; Myrdal; Nelson, C.; Nelson, J.; Nicholas; Nowatzki; Oban; O'Connell; Olsen, D.; Olson, A.; Olson, V.; Opedahl; O'Shea; Payne; Rice; Riehl; Rydell; Scherber; Schindler; Schneider; Shaft; Shaw; Shide; Shockman; Skjerven; Smette; Solberg; Sorensen; Starke; Stofferahn; Strinden; Thompson; Tokach; Tollefson; Tomac; Trautman; Ulmer; Wald; Watne; Wentz; Wilkie; Williams, A.; Williams, C.; Williams, W.; Winkelman; Speaker Kloubec

**NAYS:** Gunsch; Kingsbury; Melby; Murphy; Vander Vorst

**ABSENT AND NOT VOTING:** Hausauer, R.; Martin; Peterson; Whalen

HB 1174 passed and the title was agreed to.

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#### CONSIDERATION OF MESSAGE FROM THE SENATE

**REP. LARSON MOVED** that the House do concur in the Senate amendments to HB 1329, which motion prevailed.

#### MOTION

**REP. STRINDEN MOVED** that the rules be suspended, that HB 1329 be deemed properly reengrossed and placed on the calendar, as amended, for second reading and final passage, which motion prevailed.

#### SECOND READING OF HOUSE BILL

**HB 1329:** A BILL for an Act to amend and reenact section 26.1-36-07 of the North Dakota Century Code, relating to required group health insurance coverage for adopted children.

Which has been read.

## ROLL CALL

The question being on the final passage of the bill, as amended, the roll was called and there were 100 YEAS, 0 NAYS, 6 ABSENT AND NOT VOTING.

YEAS: Aas; Almlie; Anderson; Belter; Berg, G.; Berg, R.; Brokaw; Christman; Cleveland; Dalrymple; DeMers, J.; DeMers, P.; Dorso; Dotzenrod; Enget; Flaagan; Frey; Gates; Gerntholz; Goetz; Gorman; Graba; Gunsch; Halmrast; Hamerlik; Hanson, L.; Hanson, O.; Haugen; Haugland; Hausauer, A.; Hill; Hoffner; Hokana; Kent; Kingsbury; Klundt; Knell; Knudson; Koland; Kolbo; Kretschmar; Kuchera; Lang; Larson; Laughlin; Lautenschlager; Linderman; Lindgren; Marks; Martin; Martinson; Melby; Mertens; Meyer; Moore; Murphy; Myrdal; Nelson, C.; Nelson, J.; Nicholas; Nowatzki; Oban; O'Connell; Olsen, D.; Olson, A.; Olson, V.; Opedahl; O'Shea; Payne; Rice; Riehl; Rydell; Scherber; Schindler; Schneider; Shaft; Shaw; Shide; Shockman; Skjerven; Smette; Solberg; Sorensen; Starke; Stofferahn; Strinden; Thompson; Tokach; Tollefson; Tomac; Trautman; Ulmer; Vander Vorst; Wald; Watne; Wilkie; Williams, A.; Williams, W.; Winkelman; Speaker Kloubec

NAYS: None

ABSENT AND NOT VOTING: Hausauer, R.; Kelly; Peterson; Wentz; Whalen; Williams, C.

HB 1329 passed and the title was agreed to.

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## CONSIDERATION OF MESSAGE FROM THE SENATE

REP. NICHOLAS MOVED that the House do concur in the Senate amendments to HB 1630, which motion prevailed.

## MOTION

REP. STRINDEN MOVED that the rules be suspended, that HB 1630 be deemed properly reengrossed and placed on the calendar, as amended, for second reading and final passage, which motion prevailed.

## SECOND READING OF HOUSE BILL

HB 1630: A BILL for an Act to amend and reenact subsections 1 and 10 of section 10-06-13 of the North Dakota Century Code, relating to deeds conveying farmland or ranchland to a corporation; and to provide a penalty.

Which has been read.

## ROLL CALL

The question being on the final passage of the bill, as amended, the roll was called and there were 82 YEAS, 19 NAYS, 5 ABSENT AND NOT VOTING.

**YEAS:** Aas; Almlie; Anderson; Berg, G.; Brokaw; Christman; Cleveland; DeMers, J.; DeMers, P.; Dotzenrod; Enget; Flaagan; Frey; Gerntholz; Gorman; Graba; Gunsch; Halmrast; Hamerlik; Hanson, L.; Hanson, O.; Haugen; Haugland; Hausauer, A.; Hill; Hoffner; Hokana; Kelly; Kent; Kingsbury; Klundt; Knell; Koland; Kolbo; Kretschmar; Lang; Laughlin; Lautenschlager; Linderman; Marks; Melby; Mertens; Meyer; Moore; Murphy; Myrdal; Nelson, C.; Nelson, J.; Nicholas; Nowatzki; Oban; O'Connell; Olson, A.; Olson, V.; Opedahl; O'Shea; Rice; Riehl; Scherber; Schindler; Shaft; Shaw; Shockman; Skjerven; Smette; Solberg; Starke; Stofferahn; Tokach; Tollefson; Tomac; Trautman; Ulmer; Vander Vorst; Watne; Wentz; Wilkie; Williams, A.; Williams, C.; Williams, W.; Winkelman; Speaker Kloubec

**NAYS:** Belter; Berg, R.; Dalrymple; Dorso; Gates; Goetz; Knudson; Kuchera; Larson; Lindgren; Martin; Martinson; Olsen, D.; Payne; Rydell; Shide; Sorensen; Thompson; Wald

**ABSENT AND NOT VOTING:** Hausauer, R.; Peterson;  
Schneider; Strinden; Whalen

HB 1630 passed and the title was agreed to.

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## CONSIDERATION OF MESSAGE FROM THE SENATE

REP. LARSON MOVED that the House do concur in the Senate amendments to HCR 3073, which motion prevailed.

## MOTION

REP. STRINDEN MOVED that the rules be suspended, that HCR 3073 be deemed properly reengrossed and placed on the calendar, as amended, for second reading and final passage, which motion prevailed.

## SECOND READING OF HOUSE CONCURRENT RESOLUTION

HCR 3073: A concurrent resolution directing the Legislative Council to study services to deaf and hearing impaired children and adults, to examine the role of the North Dakota School for the Deaf in the provision of educational and rehabilitative services to the deaf, and to determine alternative methods of educating and rehabilitating the deaf in communities throughout the state.

Which has been read.



The question being on the adoption of the resolution, as amended.  
HCR 3073 was declared adopted on a voice vote.

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#### CONSIDERATION OF MESSAGE FROM THE SENATE

REP. GATES MOVED that the House do concur in the Senate amendments to HB 1675, which motion prevailed.

#### MOTION

REP. STRINDEN MOVED that the rules be suspended, that HB 1675 be deemed properly reengrossed and placed on the calendar, as amended, for second reading and final passage, which motion prevailed.

#### SECOND READING OF HOUSE BILL

HB 1675: A BILL for an Act to create and enact a new section to chapter 57-15 of the North Dakota Century Code, relating to a school district mill levy for asbestos abatement.

Which has been read.

#### ROLL CALL

The question being on the final passage of the bill, as amended, the roll was called and there were 94 YEAS, 6 NAYS, 6 ABSENT AND NOT VOTING.

YEAS: Aas; Almlie; Belter; Berg, G.; Brokaw; Christman; Cleveland; Dalrymple; DeMers, J.; DeMers, P.; Dorso; Dotzenrod; Enget; Flaagan; Frey; Gates; Gerntholz; Goetz; Gorman; Graba; Halmrast; Hamerlik; Hanson, L.; Hanson, O.; Haugen; Haugland; Hausauer, A.; Hill; Hoffner; Hokana; Kelly; Kent; Klundt; Knell; Knudson; Koland; Kolbo; Kretschmar; Kuchera; Lang; Larson; Laughlin; Lautenschlager; Linderman; Lindgren; Marks; Martin; Martinson; Mertens; Meyer; Moore; Myrdal; Nelson, C.; Nelson, J.; Nicholas; Oban; O'Connell; Olsen, D.; Olson, A.; Olson, V.; Opedahl; O'Shea; Payne; Rice; Riehl; Rydell; Scherber; Schindler; Schneider; Shaft; Shaw; Shide; Shockman; Skjerven; Smette; Solberg; Sorensen; Starke; Stofferahn; Strinden; Thompson; Tollefson; Trautman; Ulmer; Vander Vorst; Watne; Wentz; Whalen; Wilkie; Williams, A.; Williams, C.; Williams, W.; Winkelman; Speaker Kloubec

NAYS: Gunsch; Kingsbury; Melby; Murphy; Tokach; Tomac

ABSENT AND NOT VOTING: Anderson; Berg, R.; Hausauer, R.; Nowatzki; Peterson; Wald

HB 1675 passed and the title was agreed to.

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## CONSIDERATION OF MESSAGE FROM THE SENATE

REP. HAUGLAND MOVED that the House do concur in the Senate amendments to HCR 3080, which motion prevailed.

## MOTION

REP. STRINDEN MOVED that the rules be suspended, that HCR 3080 be deemed properly reengrossed and placed on the calendar, as amended, for second reading and final passage, which motion prevailed.

## SECOND READING OF HOUSE CONCURRENT RESOLUTION

HCR 3080: A concurrent resolution directing the Legislative Council to study the present and future role and function of the State Hospital in the provision of services to the mentally ill and the chemically dependent and its relationship to private and public agencies in the community providing similar services.

Which has been read.

The question being on the adoption of the resolution, as amended.

HCR 3080 was declared adopted on a voice vote.

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## CONSIDERATION OF MESSAGE FROM THE SENATE

REP. LARSON MOVED that the House do concur in the Senate amendments to HCR 3084, which motion prevailed.

## MOTION

REP. STRINDEN MOVED that the rules be suspended, that HCR 3084 be deemed properly reengrossed and placed on the calendar, as amended, for second reading and final passage, which motion prevailed.

## SECOND READING OF HOUSE CONCURRENT RESOLUTION

HCR 3084: A concurrent resolution directing the Legislative Council to study the Department of Human Services' establishment of a prospective Medicaid payment system.

Which has been read.

The question being on the adoption of the resolution, as amended.

HCR 3084 was declared adopted on a voice vote.

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## CONSIDERATION OF MESSAGE FROM THE SENATE

REP. GATES MOVED that the House do concur in the Senate amendments to HCR 3057, which motion prevailed.

MOTION

REP. STRINDEN MOVED that the rules be suspended, that HCR 3057 be deemed properly reengrossed and placed on the calendar, as amended, for second reading and final passage, which motion prevailed.

SECOND READING OF HOUSE CONCURRENT RESOLUTION

HCR 3057: A concurrent resolution directing the Legislative Council to study the financing, type, and potential location of group or residential child treatment facilities needed for foster care or educational placements.

Which has been read.

The question being on the adoption of the resolution, as amended.

HCR 3057 was declared adopted on a voice vote.

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CONSIDERATION OF MESSAGE FROM THE SENATE

REP. GATES MOVED that the House do concur in the Senate amendments to HCR 3066, which motion prevailed.

MOTION

REP. STRINDEN MOVED that the rules be suspended, that HCR 3066 be deemed properly reengrossed and placed on the calendar, as amended, for second reading and final passage, which motion prevailed.

SECOND READING OF HOUSE CONCURRENT RESOLUTION

HCR 3066: A concurrent resolution directing the Legislative Council to study the funding of adult basic and secondary education, to review the various alternative methods of funding this type of education, and to arrive at a method of funding adult basic and secondary education that is secure and stable.

Which has been read.

The question being on the adoption of the resolution, as amended.

HCR 3066 was declared adopted on a voice vote.

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APPOINTMENT OF CONFERENCE COMMITTEE

THE SPEAKER ANNOUNCED the following appointment to a Conference Committee on SB 2387:

Reps. Sorensen, Shaw, Skjerven

MESSAGES FROM THE SENATE  
SENATE CHAMBER

MR. SPEAKER: I have the honor to transmit herewith the following which the Senate has passed and your favorable consideration is requested on:

SCR 4066

PERRY GROTEBERG, Secretary

## SENATE CHAMBER

MR. SPEAKER: I have the honor to return herewith HB 1004 and HB 1064 which the Senate has amended and subsequently passed:

## SENATE AMENDMENTS TO ENGROSSED HB 1004

On page 1 of the engrossed bill, line 19, delete the numerals "14,549,720" and insert in lieu thereof the numerals "14,749,720"

On page 1 of the engrossed bill, line 20, delete the numerals "3,876,566" and insert in lieu thereof the numerals "3,976,566"

On page 1 of the engrossed bill, line 23, delete the numerals "21,131,459" and insert in lieu thereof the numerals "21,431,459"

On page 1 of the engrossed bill, line 25, delete the numerals "13,330,262" and insert in lieu thereof the numerals "13,630,262"

And renumber the lines, sections, and pages accordingly

## STATEMENT OF PURPOSE OF AMENDMENT:

State Board of Vocational Education

The grants, benefits, and claims line item is increased by \$200,000 from the general fund and the grants to postsecondary education line item is increased by \$100,000 from the general fund. The House decreased these line items by \$456,211 and \$171,621, respectively.

## SENATE AMENDMENTS TO ENGROSSED HB 1064

On page 1 of the engrossed bill, line 1, after the words "A BILL" delete the remainder of the bill and insert in lieu thereof the following: "for an Act to provide for the adoption of the water's edge combination approach to unitary taxation for corporate income tax purposes; and to provide an effective date."

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. Definitions. For purposes of this Act:

1. "Affiliated corporation" means a corporation which is a member of a group of two or more corporations more than fifty percent of the voting stock of each member of which is directly or indirectly owned by a common owner or by common owners, either corporate or noncorporate, or by one or more of the member corporations of the group.
2. "Affiliated group" includes all affiliated corporations and their parent.
3. "Combined report" means an accounting method which reflects the activities and income of an affiliated group which conducts a unitary business within and without this state.
4. "Functionally related income" means income which arises out of, is used in, or is otherwise connected with, a taxpayer's unitary business operation, but does not include the gross-up of foreign taxes computed for the foreign tax credit.
5. "Multinational corporation" means a corporation that conducts a unitary business through subsidiary or affiliated corporations at least one of which is incorporated in a country foreign to that of the parent.
6. "Tax haven corporation" means any corporation which is incorporated in a country that either does not impose an income tax or imposes an income tax at a rate lower than ninety percent of the federal tax rate on the federally defined income tax base and either of the following apply:
  - a. Fifty percent or more of either the corporation's sales or purchases or payments of income or expenses, exclusive of payments for intangible property, or payments of eighty percent or more of all expenses are made directly or indirectly to one or more members of a water's edge group.
  - b. The corporation performs no significant economic activity.

It is presumed that a tax haven corporation is a member of the combinable unitary group.
7. a. "Threshold level of business activity in the United States" means either of the following:

- (1) Activity in excess of twenty percent of a business's averaged apportioned activities.
  - (2) Defined activities in this country in an amount of at least ten million dollars.
- b. For purposes of this subsection "averaged apportioned activities" means an equally weighted average of a business's property, payroll, and sales and "defined activities in this country" means any one or more of the following:
  - (1) Property.
  - (2) Payroll.
  - (3) Sales.
  - (4) Purchases assignable to locations in the United States under the laws of this state.
8. "Unitary business or combinable unitary group" means either a multicorporate or a monocorporate business among the components of which there is a flow of value. A flow of value may be evidenced by functional integration, centralization of management, or economies of scale.
9. "United States corporation" means any corporation incorporated in the United States.
10. "Water's edge combination" or "water's edge combined group" includes those of the following corporations which are a part of a unitary business:
  - a. Corporations included or includable in a consolidated return for federal corporate income tax purposes.
  - b. United States possession corporations.
  - c. Any corporation incorporated in any United States possession or territory.
  - d. Domestic international sales corporations or foreign sales corporations.
  - e. Tax haven corporations.

- f. Foreign corporations having at least a threshold level of business activity in the United States.
  - g. United States corporations, not included in subdivision a, more than fifty percent of the voting stock of which is owned or controlled, directly or indirectly, by another United States corporation.
11. "Worldwide combination" or "worldwide combined reporting" means the use of a combined report with respect to an affiliated group irrespective of the country or countries in which any member of the affiliated group is incorporated or conducts business activities.

**SECTION 2. Conditions for employment of water's edge combination.** No multinational corporation or any affiliate of a multinational corporation is required to file a worldwide combined report if the following conditions are met:

- 1. It includes in its apportionable net income the functionally related income of those entities which are members of the water's edge combined group.
- 2. It consents to the taking of depositions by or on behalf of this state and agrees to accept subpoenas issued by this state for the purpose of the state's obtaining information which the state considers to be necessary for determining or verifying the corporation's taxable income.
- 3. It consents to the introduction into evidence, as a part of a judicial proceeding, of the record of any final court determination in another state involving the same taxpayer or unitary business.
- 4. It complies with reasonable discovery efforts aimed at obtaining information necessary to determine or verify its taxable income.
- 5. It consents to the introduction into evidence, without being contested as to its relevancy, tax information pertaining to the examination of multinational operations, including underlying data obtained from the internal revenue service or a foreign government.
- 6. It consents to retain for a period of six years the following information for possible use by state tax auditors:

- a. Documents and information which are necessary to audit issues involving United States versus foreign attribution of income, for example, as provided in section 482, subpart F, and sections 861, 863, 902, and 904 of the Internal Revenue Code.
  - b. Documents identifying key employees and officers who have knowledge of and access to company pricing and costing policies, including the titles and addresses of those employees and officers.
  - c. Documents and correspondence pertaining to the sourcing of income between United States and foreign jurisdictions and the determination of foreign tax liability, including documents submitted to or obtained from the internal revenue service, foreign countries, and competent authority.
  - d. United States tax forms 5471, 5472, and 5473 or equivalent replacement forms filed with the internal revenue service.
  - e. The same information requested in United States tax forms 5471, 5472, and 5473 or equivalent replacement forms insofar as it applies to United States corporations of which fifty percent or more of the voting stock is directly or indirectly owned or controlled.
  - f. All state corporate tax returns filed by each corporation in each state.
7. It files a spreadsheet with the state tax return that fully discloses the income reported to each state, the state tax liability, and the method used for apportioning or allocating income to the various states, and any other information as provided for by rules as may be necessary to determine properly the amount of taxes due to each state and to identify the water's edge corporate group and those of its affiliates of which more than fifty percent of the voting stock is directly or indirectly owned or controlled by a common owner or owners, either corporate or noncorporate, or by one or more of the member corporations of the group.

**SECTION 3. Use of worldwide combination.**  
Notwithstanding the provisions of section 2 of this Act which limit the unitary method to the water's edge if the



conditions of that section are met, this state may use worldwide combination in the following circumstances:

1. If any corporation fails to comply with the disclosure spreadsheet filing requirements or this state's legal and procedural requirements.
2. If water's edge combination, after necessary and appropriate adjustments, fails to prevent the evasion of taxes or to clearly reflect income.
3. If the taxpayer does not provide relevant information on the operations of a foreign-based parent within a reasonable period of time or if the government of the foreign country does not allow the states to have access to such information.

#### SECTION 4. Presumptions and burden of proof.

1. A corporation and its affiliates shall be presumed to be a part of a unitary business as asserted by the state tax commissioner if it fails to comply with the spreadsheet disclosure requirements or with reasonable requests for information concerning itself or its relationships with controlled affiliates which information is necessary to perform an audit similar in manner to those authorized under sections 482 and 861 or under subpart F of the Internal Revenue Code.
2. A taxpayer has the burden of proof in seeking to refute a contention by the state that a unitary business exists within the water's edge combination defined in section 1 of this Act.

SECTION 5. Antidiscrimination. A domestic corporation may establish that the inclusion of dividends from foreign corporations in its apportionable income under this Act results in discriminatory taxation if it proves by clear and convincing evidence that in the country in which the foreign corporation is incorporated all of the following apply:

1. The country does not tax dividend income received by its own corporations from foreign corporations.
2. The country does not tax any other income received by its own corporations from foreign corporations.

3. The country does not impose a higher effective tax rate than does the United States on comparably defined net income.
4. The country does not grant foreign tax credits comparable to those granted by the United States.

Proof of discriminatory taxation entitles the domestic corporation to eliminate those dividends from its apportionable net income.

**SECTION 6. Regulations.** The state tax commissioner may issue rules for the efficient enforcement of this Act.

**SECTION 7. EFFECTIVE DATE.** This Act is effective for taxable years beginning after December 31, 1988."

And renumber the lines, sections, and pages accordingly  
**PERRY GROTEBERG, Secretary**

#### MOTIONS

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

**REP. GOETZ MOVED** that the House be on the Thirteenth order of business, and at the conclusion of the Thirteenth order, the House stand adjourned until 9:00 a.m., Wednesday, April 1, 1987, which motion prevailed.

#### FIRST READING OF SENATE CONCURRENT RESOLUTION

**SCR 4066:** A concurrent resolution directing the Legislative Council to study the feasibility and desirability of changes in the legal status of, and relationships existing among, political subdivisions and the effect of new legislation on county and city budgets.  
Was read the first time and referred to the Committee on Political Subdivisions.

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

**ROY GILBREATH, Chief Clerk**