

JOURNAL OF THE SENATE

Fifty-fourth Legislative Assembly

* * * * *

Bismarck, February 27, 1995

The Senate convened at 1:00 p.m., with President Myrdal presiding.

The prayer was offered by Fr. Bob Kippley, Our Lady of Grace Catholic Church, Minot.

The roll was called and all members were present except Senator Tallackson.

A quorum was declared by the President.

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM C. PARKER, SECRETARY)

MR. SPEAKER: The President has signed and your signature is respectfully requested on: SB 2032, SB 2048, SB 2077, SB 2119, SB 2125, SB 2126, SB 2153, SB 2165, SB 2168, SB 2169, SB 2184, SB 2185, SB 2337, SB 2346, SCR 4004.

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM C. PARKER, SECRETARY)

MR. SPEAKER: The Senate has failed to pass: HB 1063.

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM C. PARKER, SECRETARY)

MR. SPEAKER: The Senate has passed unchanged: HB 1079, HB 1096, HB 1143, HB 1158, HB 1197, HB 1438, HB 1480.

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

MADAM PRESIDENT: The House has passed unchanged: SB 2124, SB 2189, SB 2191, SB 2199, SB 2333, SCR 4015.

COMMUNICATION FROM GOVERNOR EDWARD T. SCHAFER

February 13, 1995

Pursuant to NDCC Section 15-10-05, I am hereby nominating J. H. "Jack" Hoeven, Jr., of Minot, North Dakota, to serve on the State Board of Higher Education, succeeding Richard Lokken, whose term expires June 30, 1995.

Mr. Hoeven's name was submitted in accordance with NDCC Section 15-10-02. He is not a graduate of any North Dakota institution of higher education and meets the requirements of NDCC Chapter 15-10. Therefore, I ask the Senate to consider confirming Jack Hoeven for this position.

I would appreciate the Senate confirming this nomination prior to its adjournment.

Thank you for your consideration.

COMMUNICATION FROM GOVERNOR EDWARD T. SCHAFER

February 7, 1995

Pursuant to NDCC Section 53-06.1-01.1, I am hereby nominating the following to serve on the North Dakota State Gaming Commission:

Ms. Sandy Tjaden, Medora; who succeeded Linda Steve, whose term expired July 1, 1994;

Mr. Carrol Torgerson, Cooperstown; who succeeded William Hixson, whose term expired July 1, 1994;

Ms. Lois Altenburg, Fargo; to succeed Sonja Kosler, whose term expires July 1, 1995; and

Mr. Robert O. Wefald, Bismarck; to succeed Rick Maixner, who resigned December 1, 1994.

I would appreciate the Senate confirming these nominations prior to its adjournment.

Thank you for your attention.

REPORT OF PROCEDURAL COMMITTEE

MADAM PRESIDENT: Your procedural Committee on Committees (Sen. G. Nelson, Chairman) announces the appointment of Sens. Watne, Kringstad, and C. Nelson to the Senate Memorial Committee.

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

REPORT OF PROCEDURAL COMMITTEE

MADAM PRESIDENT: Your procedural Committee on Committees (Sen. G. Nelson, Chairman) respectfully submits the following names for your Select Committee to consider the Governor's nomination for the appointment of J. H. Hoeven, Jr., to the State Board of Higher Education: Sen. Goetz, Chairman, Sens. Krebsbach, Traynor, Freborg, Scherber, Heinrich, and Redlin.

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

REPORT OF PROCEDURAL COMMITTEE

MADAM PRESIDENT: Your procedural Committee on Committees (Sen. G. Nelson, Chairman) respectfully submits the following names for your Select Committee to consider the Governor's nominations for the appointments of Ms. Sandy Tjaden, Mr. Carrol Torgerson, Ms. Lois Altenburg, and Mr. Robert Wefald to the State Gaming Commission: Sen. W. Stenehjem, Chairman, Sens. Lee, Bowman, Solberg, Robinson, C. Nelson, and Krauter.

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

POINT OF PERSONAL PRIVILEGE

SEN. HOLMBERG: Madam President: I rise on a point of personal privilege and request that my remarks be printed in the Journal.

REMARKS OF SENATOR HOLMBERG

As a faculty member of Grand Forks Central High School, I would like to take this opportunity to congratulate the young men, the coaching staff, and others for their success in the 1995 State Hockey Tournament. Your victory is an exciting tribute to hard work and good sportsmanship. Central has won state hockey championships 22 times in the 35 year history of the tournament. Congratulations to each and every one of you. You are truly "Champions". These comments place your exploits into the permanent record of the State of North Dakota.

Team Members: Nick Fohr, D. J. Greenberg, Eric Ness, Ryan Rogalla, Rick Staveteig, Jeremy Tandeski, Craig Wilhelmi, Lane Young, Casey Bartholomew, Tony Bina, Jeremy Finnie, Jeremy Hangsleben, Jay Hjelman, Ryan Kuhl, Marc Lemieux, Joey Melicher, Tim O'Connell, Jerad Omlid, Jeff Panzer, Dylan Spicer, John Spicer, Jake Moreland, Chris Ryan.

Coaches: Chuck Ness, Walt Knipe, Greg Ladouceur, Rick Palmiscno.

Managers and Trainers: Andy Gasparini, Matt Benjamin, Jessica Fode, Phil Jenkins.

Cheerleaders: Heidi Erickson, Jenny Alderson, Cindy Walker, Ali Forbes, Sara McIntyre.

Others: Gordon Opstad, Principal; Jeff Schatz, Assoc. Principal; Rich Ferguson, Activities Director; Luann Burris, Cheerleading Advisor; Jill Corlette, Trainer.

CONSIDERATION OF AMENDMENTS

SCR 4057: SEN. BOWMAN (Agriculture Committee) MOVED that the amendments on SJ page 761 be adopted and then be placed on the Eleventh order with DO PASS, which motion prevailed.

CONSIDERATION OF AMENDMENTS

SCR 4059: SEN. WANZEK (Education Committee) MOVED that the amendments on SJ page 761 be adopted and then be placed on the Eleventh order with DO PASS, which motion prevailed.

CONSIDERATION OF AMENDMENTS

HB 1046, as engrossed: SEN. KELSH (Education Committee) MOVED that the amendments on SJ pages 761-762 be adopted and then be placed on the Fourteenth order with DO PASS, which motion prevailed.

CONSIDERATION OF AMENDMENTS

HB 1103, as engrossed: SEN. HEINRICH (Government and Veterans Affairs Committee) MOVED that the amendments on SJ page 762 be adopted and then be placed on the Fourteenth order with DO PASS, which motion prevailed.

CONSIDERATION OF AMENDMENTS

HB 1298: SEN. TRAYNOR (Judiciary Committee) MOVED that the amendments on SJ pages 762-763 be adopted and then be placed on the Fourteenth order with DO PASS, which motion prevailed.

SECOND READING OF HOUSE BILL

HB 1298: A BILL for an Act to repeal section 15 of chapter 374 of the 1987 Session Laws, section 1 of chapter 379 of the 1989 Session Laws, and section 6 of chapter 24 of the 1993 Session Laws, relating to the expiration date for legislation that established the court of appeals.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 48 YEAS, 0 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Andrist; Bowman; Christmann; DeMers; Freborg; Goetz; Grindberg; Heinrich; Heitkamp; Holmberg; Kelsh; Kinnoin; Krauter; Krebsbach; Kringstad; LaFountain; Langley; Lee; Lindaas; Lips; Mathern; Mushik; Mutch; Naaden; Nalewaja; Nelson, C.; Nelson, G.; Nething; O'Connell; Redlin; Robinson; Sand; Scherber; Schobinger; Solberg; St. Aubyn; Stenehjem, B.; Stenehjem, W.; Streibel; Tennefos; Thane; Tomac; Traynor; Urlacher; Wanzek; Watne; Wogsland; Yockim

ABSENT AND NOT VOTING: Tallackson

HB 1298, as amended, passed and the title was agreed to.

SECOND READING OF SENATE CONCURRENT RESOLUTION

SCR 4011: A concurrent resolution directing the Legislative Council to study open records laws and exceptions to the open records laws.

The question being on the final adoption of the resolution, which has been read, and has committee recommendation of DO NOT PASS.

SCR 4011 lost on a voice vote.

SECOND READING OF SENATE CONCURRENT RESOLUTION

SCR 4053: A concurrent resolution directing the Legislative Council to study the state's water laws concerning their effect on the efficient use of water and their effect on the holders of senior water rights.

The question being on the final adoption of the resolution, which has been read, and has committee recommendation of DO PASS.

SCR 4053 passed on a voice vote, and the title was agreed to.

SECOND READING OF HOUSE BILL

HB 1084: A BILL for an Act to create and enact a new section to chapter 43-23 of the North Dakota Century Code, relating to injunctive actions by the North Dakota real estate commission.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 47 YEAS, 1 NAY, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Andrist; Bowman; Christmann; DeMers; Freborg; Goetz; Grindberg; Heinrich; Heitkamp; Holmberg; Kelsh; Kinnoin; Krauter; Krebsbach; Kringstad; LaFountain; Langley; Lee; Lindaas; Lips; Mathern; Mushik; Mutch; Naaden; Nalewaja; Nelson, C.; Nelson, G.; Nething; O'Connell; Redlin; Robinson; Scherber; Schobinger; Solberg; St. Aubyn; Stenehjem, B.; Stenehjem, W.; Streibel; Tennefos; Thane; Tomac; Traynor; Uriacher; Wanzek; Watne; Wogsland; Yockim

NAYS: Sand

ABSENT AND NOT VOTING: Tallackson

Engrossed HB 1084, as amended, passed and the title was agreed to.

SECOND READING OF HOUSE BILL

HB 1336: A BILL for an Act to provide for immunity from liability and confidentiality of records and proceedings relating to critical incident stress management.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 48 YEAS, 0 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Andrist; Bowman; Christmann; DeMers; Freborg; Goetz; Grindberg; Heinrich; Heitkamp; Holmberg; Kelsh; Kinnoin; Krauter; Krebsbach; Kringstad; LaFountain; Langley; Lee; Lindaas; Lips; Mathern; Mushik; Mutch; Naaden; Nalewaja; Nelson, C.; Nelson, G.; Nething; O'Connell; Redlin; Robinson; Sand; Scherber; Schobinger; Solberg; St. Aubyn; Stenehjem, B.; Stenehjem, W.; Streibel; Tennefos; Thane; Tomac; Traynor; Uriacher; Wanzek; Watne; Wogsland; Yockim

ABSENT AND NOT VOTING: Tallackson

HB 1336, as amended, passed and the title was agreed to.

SECOND READING OF HOUSE BILL

HB 1024: A BILL for an Act to create and enact two new sections to chapter 28-32 of the North Dakota Century Code, relating to environmental rules adopted from federal guidelines.

ROLL CALL

The question being on the final passage of the bill, which has been read, and

has committee recommendation of DO PASS, the roll was called and there were 48 YEAS, 0 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Andrist; Bowman; Christmann; DeMers; Freborg; Goetz; Grindberg; Heinrich; Heitkamp; Holmberg; Kelsh; Kinnoin; Krauter; Krebsbach; Kringstad; LaFountain; Langley; Lee; Lindaas; Lips; Mathern; Mushik; Mutch; Naaden; Nalewaja; Nelson, C.; Nelson, G.; Nething; O'Connell; Redlin; Robinson; Sand; Scherber; Schobinger; Solberg; St. Aubyn; Stenehjem, B.; Stenehjem, W.; Streibel; Tennefos; Thane; Tomac; Traynor; Urlacher; Wanzek; Watne; Wogsland; Yockim

ABSENT AND NOT VOTING: Tallackson

HB 1024 passed and the title was agreed to.

SECOND READING OF HOUSE BILL

HB 1078: A BILL for an Act to create and enact a new subsection to section 54-17-07.2 and a new section to chapter 54-17 of the North Dakota Century Code, relating to housing finance program definitions and pledges; to amend and reenact subsection 1 of section 54-17-07.3 and section 54-17-07.4, relating to home mortgage finance programs and housing revenue bonds; and to provide for retroactive application.

ROLL CALL

The question being on the final passage of the bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 48 YEAS, 0 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Andrist; Bowman; Christmann; DeMers; Freborg; Goetz; Grindberg; Heinrich; Heitkamp; Holmberg; Kelsh; Kinnoin; Krauter; Krebsbach; Kringstad; LaFountain; Langley; Lee; Lindaas; Lips; Mathern; Mushik; Mutch; Naaden; Nalewaja; Nelson, C.; Nelson, G.; Nething; O'Connell; Redlin; Robinson; Sand; Scherber; Schobinger; Solberg; St. Aubyn; Stenehjem, B.; Stenehjem, W.; Streibel; Tennefos; Thane; Tomac; Traynor; Urlacher; Wanzek; Watne; Wogsland; Yockim

ABSENT AND NOT VOTING: Tallackson

HB 1078 passed and the title was agreed to.

SECOND READING OF HOUSE BILL

HB 1087: A BILL for an Act to amend and reenact subsection 2 of section 15-10-19.1 of the North Dakota Century Code, relating to the definition of resident student for higher education tuition purposes.

ROLL CALL

The question being on the final passage of the bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 36 YEAS, 12 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: DeMers; Goetz; Grindberg; Heinrich; Heitkamp; Holmberg; Krebsbach; Kringstad; LaFountain; Langley; Lee; Lindaas; Lips; Mathern; Mushik; Naaden; Nalewaja; Nelson, C.; Nelson, G.; Nething; O'Connell; Redlin; Robinson; Scherber; Schobinger; St. Aubyn; Stenehjem, W.; Tennefos; Thane; Tomac; Traynor; Urlacher; Wanzek; Watne; Wogsland; Yockim

NAYS: Andrist; Bowman; Christmann; Freborg; Kelsh; Kinnoin; Krauter; Mutch; Sand; Solberg; Stenehjem, B.; Streibel

ABSENT AND NOT VOTING: Tallackson

Engrossed HB 1087 passed and the title was agreed to.

SECOND READING OF HOUSE BILL

HB 1098: A BILL for an Act to repeal section 54-01-17.2 of the North Dakota Century Code, relating to the North Dakota-Saskatchewan-Manitoba boundary advisory committee.

ROLL CALL

The question being on the final passage of the bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 45 YEAS, 3 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Andrist; Bowman; Christmann; DeMers; Freborg; Goetz; Grindberg; Heinrich; Heitkamp; Holmberg; Kelsh; Kinnoin; Krauter; Krebsbach; Kringstad; LaFountain; Langley; Lee; Lindaas; Lips; Mathern; Mutch; Naaden; Nalewaja; Nelson, C.; Nelson, G.; Nething; Redlin; Robinson; Sand; Scherber; Schobinger; Solberg; St. Aubyn; Stenehjem, B.; Stenehjem, W.; Streibel; Tennefos; Thane; Tomac; Traynor; Urlacher; Wanzek; Watne; Wogsland

NAYS: Mushik; O'Connell; Yockim

ABSENT AND NOT VOTING: Tallackson

HB 1098 passed and the title was agreed to.

SECOND READING OF HOUSE BILL

HB 1122: A BILL for an Act to amend and reenact sections 40-21-06 and 40-21-08 of the North Dakota Century Code, relating to statements of principles on city election ballots.

ROLL CALL

The question being on the final passage of the bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 48 YEAS, 0 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Andrist; Bowman; Christmann; DeMers; Freborg; Goetz; Grindberg; Heinrich; Heitkamp; Holmberg; Kelsh; Kinnoin; Krauter; Krebsbach; Kringstad; LaFountain; Langley; Lee; Lindaas; Lips; Mathern; Mushik; Mutch; Naaden; Nalewaja; Nelson, C.; Nelson, G.; Nething; O'Connell; Redlin; Robinson; Sand; Scherber; Schobinger; Solberg; St. Aubyn; Stenehjem, B.; Stenehjem, W.; Streibel; Tennefos; Thane; Tomac; Traynor; Urlacher; Wanzek; Watne; Wogsland; Yockim

ABSENT AND NOT VOTING: Tallackson

HB 1122 passed and the title was agreed to.

SECOND READING OF HOUSE BILL

HB 1130: A BILL for an Act to amend and reenact section 2-05-06.5 of the North Dakota Century Code, relating to state assistance for public airports.

ROLL CALL

The question being on the final passage of the bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 47 YEAS, 1 NAY, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Andrist; Bowman; Christmann; DeMers; Freborg; Goetz; Grindberg; Heinrich; Heitkamp; Holmberg; Kelsh; Kinnoin; Krauter; Krebsbach; Kringstad; LaFountain; Langley; Lee; Lindaas; Lips; Mathern; Mushik; Mutch; Naaden; Nalewaja; Nelson, C.; Nelson, G.; Nething; O'Connell; Redlin; Robinson; Sand; Scherber; Schobinger; Solberg; St. Aubyn; Stenehjem, B.; Stenehjem, W.; Streibel; Thane; Tomac; Traynor; Urlacher; Wanzek; Watne; Wogsland; Yockim

NAYS: Tennefos

ABSENT AND NOT VOTING: Tallackson

HB 1130 passed and the title was agreed to.

SECOND READING OF HOUSE BILL

HB 1140: A BILL for an Act to create and enact a new section to chapter 12-55 of the North Dakota Century Code, relating to the definition of pardon.

ROLL CALL

The question being on the final passage of the bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 48 YEAS, 0 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Andrist; Bowman; Christmann; DeMers; Freborg; Goetz; Grindberg; Heinrich; Heitkamp; Holmberg; Kelsh; Kinnoin; Krauter; Krebsbach; Kringstad; LaFountain; Langley; Lee; Lindaas; Lips; Mathern; Mushik; Mutch; Naaden; Nalewaja; Nelson, C.; Nelson, G.; Nething; O'Connell; Redlin; Robinson; Sand; Scherber; Schobinger; Solberg; St. Aubyn; Stenehjem, B.; Stenehjem, W.; Streibel; Tennefos; Thane; Tomac; Traynor; Urlacher; Wanzek; Watne; Wogsland; Yockim

ABSENT AND NOT VOTING: Tallackson

HB 1140 passed and the title was agreed to.

SECOND READING OF HOUSE BILL

HB 1280: A BILL for an Act to amend and reenact section 28-34-01 and subsection 2 of section 40-47-11 of the North Dakota Century Code, relating to appeals of decisions of the governing body of a city.

ROLL CALL

The question being on the final passage of the bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 48 YEAS, 0 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Andrist; Bowman; Christmann; DeMers; Freborg; Goetz; Grindberg; Heinrich; Heitkamp; Holmberg; Kelsh; Kinnoin; Krauter; Krebsbach; Kringstad; LaFountain; Langley; Lee; Lindaas; Lips; Mathern; Mushik; Mutch; Naaden; Nalewaja; Nelson, C.; Nelson, G.; Nething; O'Connell; Redlin; Robinson; Sand; Scherber; Schobinger; Solberg; St. Aubyn; Stenehjem, B.; Stenehjem, W.; Streibel; Tennefos; Thane; Tomac; Traynor; Urlacher; Wanzek; Watne; Wogsland; Yockim

ABSENT AND NOT VOTING: Tallackson

Engrossed HB 1280 passed and the title was agreed to.

SECOND READING OF HOUSE BILL

HB 1304: A BILL for an Act to create and enact a new section to chapter 47-05 of the North Dakota Century Code, relating to easements for forest purposes.

ROLL CALL

The question being on the final passage of the bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 48 YEAS, 0 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Andrist; Bowman; Christmann; DeMers; Freborg; Goetz; Grindberg; Heinrich; Heitkamp; Holmberg; Kelsh; Kinnoin; Krauter; Krebsbach; Kringstad; LaFountain; Langley; Lee; Lindaas; Lips; Mathern; Mushik; Mutch; Naaden; Nalewaja; Nelson, C.; Nelson, G.; Nething; O'Connell; Redlin; Robinson; Sand; Scherber; Schobinger; Solberg; St. Aubyn; Stenehjem, B.; Stenehjem, W.; Streibel; Tennefos; Thane; Tomac; Traynor; Urlacher; Wanzek; Watne; Wogsland; Yockim

ABSENT AND NOT VOTING: Tallackson

Engrossed HB 1304 passed and the title was agreed to.

SECOND READING OF HOUSE BILL

HB 1403: A BILL for an Act to amend and reenact subsection 4 of section 19-03.1-01, section 19-03.1-01.1, subsection 5 of section 19-03.1-05, subsection 14 of section 43-15-10, and subsection 4 of section 54-12-14 of the North Dakota Century Code, relating to the controlled substances board and the state board of pharmacy and schedule I controlled substances.

ROLL CALL

The question being on the final passage of the bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 48 YEAS, 0 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Andrist; Bowman; Christmann; DeMers; Freborg; Goetz; Grindberg; Heinrich; Heitkamp; Holmberg; Kelsh; Kinnoin; Krauter; Krebsbach; Kringstad; LaFountain; Langley; Lee; Lindaas; Lips; Mathern; Mushik; Mutch; Naaden; Nalewaja; Nelson, C.; Nelson, G.; Nething; O'Connell; Redlin; Robinson; Sand; Scherber; Schobinger; Solberg; St. Aubyn; Stenehjem, B.; Stenehjem, W.; Streibel; Tennefos; Thane; Tomac; Traynor; Urlacher; Wanzek; Watne; Wogsland; Yockim

ABSENT AND NOT VOTING: Tallackson

Engrossed HB 1403 passed and the title was agreed to.

SECOND READING OF SENATE CONCURRENT RESOLUTION ON CONSENT CALENDAR

SCR 4050: A concurrent resolution directing the Legislative Council to study the feasibility and desirability of implementing measures to facilitate and encourage the Tourism Department, the Council on the Arts, and the State Historical Society of North Dakota to work together and to develop jointly new and innovative products.

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

SCR 4050 was declared adopted on a voice vote, and the title was agreed to.

MOTION

SEN. GOETZ MOVED that 500 copies of Reengrossed SB 2192 be reprinted, which motion prevailed.

MOTION

SEN. GOETZ MOVED that HB 1249 be returned to the Senate floor from the Education Committee and be rereferred to the Appropriations Committee, which motion prevailed. Pursuant to Sen. Goetz's motion, HB 1249 was rereferred.

MOTION

SEN. G. NELSON MOVED that Senate Rule 507 be amended to state that a resolution directing an interim study by the Legislative Council must be reported back to the Senate no later than the "thirty-eighth" legislative day, which motion prevailed.

MOTION

SEN. GOETZ MOVED that the absent member be excused, which motion prevailed.

MOTION

SEN. GOETZ MOVED that the Senate be on the Fifth order of business and at the conclusion of that order, the Senate stand adjourned until 1:00 p.m., Tuesday, February 28, 1995, which motion prevailed.

REPORT OF STANDING COMMITTEE

SCR 4027: Government and Veterans Affairs Committee (Sen. Krebsbach, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS and BE PLACED ON THE CONSENT CALENDAR (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SCR 4027 was placed on the Sixth order on the calendar.

Page 1, line 1, after "study" insert "the operation of and services provided by the Information Services Division,"

Page 1, line 2, replace "by state agencies" with "throughout state government, and the feasibility and desirability of contracting for data processing services"

Page 1, after line 4, insert:

"WHEREAS, technological changes over the last 25 years require a review of the Information Services Division, the role of the division in providing data processing services to state agencies, and whether there may be a more efficient and appropriate method of providing state agencies with the support needed to maintain and improve their use of computers; and"

Page 1, line 15, after "study" insert "the operation of and services provided by the Information Services Division,"

Page 1, line 16, replace "by state agencies" with "throughout state government, and the feasibility and desirability of contracting for data processing services"

Renumber accordingly

REPORT OF STANDING COMMITTEE

SCR 4036: Natural Resources Committee (Sen. Traynor, Chairman) recommends DO PASS (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SCR 4036 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SCR 4045: Agriculture Committee (Sen. Bowman, Chairman) recommends DO PASS and BE PLACED ON THE CONSENT CALENDAR (4 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SCR 4045 was placed on the Tenth order on the calendar.

REPORT OF STANDING COMMITTEE

SCR 4047: Government and Veterans Affairs Committee (Sen. Krebsbach, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS and BE PLACED ON THE CONSENT CALENDAR (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SCR 4047 was placed on the Sixth order on the calendar.

Page 1, line 2, after "state" insert "and define", after "and" insert "identify", after the second "the" insert "net", and after "refugees" insert "and other limited English proficient or language minority students"

Page 1, line 5, after "Dakota" insert "and these resettlements may require the funding of social services by the federal government and other entities"

Page 1, line 8, replace "often" with "may" and remove "extensive"

Page 1, line 9, after "services" insert "funded by the federal government and other entities"

Page 1, line 11, replace "often" with "may", remove "extensive", after "special" insert "language", and remove "to adapt"

Page 1, line 12, remove "to a new culture and language"

Page 1, line 15, after the comma insert "although" and after "refugees" insert "may"

Page 1, line 16, replace "no" with "some federal grants, they do not receive sufficient" and after the semicolon insert "and"

Page 1, after line 16, insert:

"WHEREAS, school districts are attended by language minority students with limited English proficiency who require special language services; and

WHEREAS, refugees also bring skills, abilities, and economic contributions to their new communities by filling employment needs in those communities; and

WHEREAS, refugees quickly become taxpayers and consumers;"

Page 1, line 19, after "state" insert "and define"

Page 1, line 20, after the first "and" insert "identify", after the first "the" insert "net", and after "refugees" insert "and other limited English proficient or language minority students"

Renumber accordingly

REPORT OF STANDING COMMITTEE

SCR 4052: Appropriations Committee (Sen. Nething, Chairman) recommends DO PASS and BE PLACED ON THE CONSENT CALENDAR (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SCR 4052 was placed on the Tenth order on the calendar.

REPORT OF STANDING COMMITTEE

SCR 4054: Government and Veterans Affairs Committee (Sen. Krebsbach, Chairman) recommends DO PASS and BE PLACED ON THE CONSENT CALENDAR (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SCR 4054 was placed on the Tenth order on the calendar.

REPORT OF STANDING COMMITTEE

SCR 4056: Natural Resources Committee (Sen. Traynor, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SCR 4056 was placed on the Sixth order on the calendar.

Page 2, remove lines 3 through 6

Renumber accordingly

REPORT OF STANDING COMMITTEE

SCR 4062: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends DO PASS and BE PLACED ON THE CONSENT CALENDAR (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SCR 4062 was placed on the Tenth order on the calendar.

REPORT OF STANDING COMMITTEE

SCR 4063: Transportation Committee (Sen. B. Stenehjem, Chairman) recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SCR 4063 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1070: Natural Resources Committee (Sen. Traynor, Chairman) recommends DO PASS (5 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). HB 1070 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1100: Government and Veterans Affairs Committee (Sen. Krebsbach, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1100 was placed on the Sixth order on the calendar.

Page 3, replace lines 24 through 28 with "The commission shall advise the director of the office of management and budget and the legislative council on matters relating to the physical and aesthetic features of the interior of all buildings on the capitol grounds. The commission must be called in and shall meet whenever major interior changes, including new construction, remodeling, or renovation of any kind are proposed or considered for the buildings or facilities on the capitol grounds. The commission must be consulted before the purchase or installation of furniture or fixtures in public areas of the capitol and other buildings"

Page 4, line 1, remove "facility"

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1102, as engrossed: Transportation Committee (Sen. B. Stenehjem, Chairman) recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1102 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1105, as engrossed: Natural Resources Committee (Sen. Traynor, Chairman) recommends DO PASS (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1105 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1106: Natural Resources Committee (Sen. Traynor, Chairman) recommends DO PASS (5 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). HB 1106 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1124, as engrossed: Agriculture Committee (Sen. Bowman, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO

PASS (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1124 was placed on the Sixth order on the calendar for immediate second reading.

Page 1, line 1, replace "section" with "sections 4-10.4-08, 4-10.4-09," and after "4-24-10" insert ", 4-28-07, and 4-28-08"

Page 1, line 2, after "reports" insert ", commodity taxes, and refunds; and to declare an emergency"

Page 1, after line 3, insert:

"SECTION 1. AMENDMENT. Section 4-10.4-08 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

4-10.4-08. Tax levied.

1. A tax at the rate of five mills per bushel [35.24 liters] must be levied and imposed upon all barley grown in the state, delivered into the state, or sold to a first purchaser in the state. This tax is due upon any identifiable lot or quantity of barley.
2. Every first purchaser of barley shall collect the tax imposed by this section by charging and collecting from the seller the tax at the rate of five mills per bushel [35.24 liters] by deducting the tax from the purchase price of all barley subject to the tax and purchased by the first purchaser.
3. Every first purchaser shall keep as a part of its permanent records a record of all purchases, sales, and shipments of barley, which may be examined by the council at all reasonable times. Every first purchaser shall report to the council by the twentieth day of each calendar quarter stating the quantity of barley received, sold, or shipped by it, except that if less than twenty-five thousand bushels [880.98 cubic meters] have been purchased, in any calendar quarter, the tax may be reported and remitted with the following quarter's return, provided that all taxes collected must be remitted at least annually. Each first purchaser shall include with each report to the council a separate accounting of the taxes levied on all barley produced outside the United States. The remittance of the tax as provided in this section must accompany the report. All moneys levied and collected under this chapter must be paid to the council for deposit in the state treasury to the credit of an account or accounts designated "barley fund" to be used exclusively to carry out the intent and purposes of this chapter. Regular audits of the council's accounts must be conducted in accordance with chapter 54-10 and submitted to the commissioner.
4. The tax provided for by this section must be deducted as provided by this chapter whether the barley is stored or sold in this or any other state, but if agreements have not been made with dealers and first purchasers outside of the state for collecting the tax, the grower shall remit the tax to the council on all barley sold by him outside the state.

SECTION 2. AMENDMENT. Section 4-10.4-09 of the North Dakota Century Code is amended and reenacted as follows:

4-10.4-09. Nonparticipating growers - Refunds.

1. Any person grower in the United States subject to the tax provided in this chapter who objects to the collection of the

tax, may within sixty days following the collection, make application by personal letter to the council for a refund application blank. Upon return of this blank, properly executed by the applicant and accompanied by a true copy of the invoice or invoices delivered by the purchaser to the grower, the council shall, ~~within sixty days after receiving the application,~~ refund to the grower the net amount of the tax collected. If no request for refund is made within sixty days after the collection of the tax, the grower is conclusively presumed to have agreed to the deduction. However, a grower, for any reason, having paid the tax more than once on the same barley, upon furnishing proof of this to the council, is entitled to a refund of the overpayment.

2. The council shall develop and disseminate information and instructions relating to the purpose of the barley tax and the manner in which refunds may be claimed, and shall cooperate with state and federal governmental agencies and private businesses engaged in the purchase of barley."

Page 1, line 15, after the first "a" insert "uniform"

Page 1, line 20, overstrike "preceding" and insert immediately thereafter "current" and remove "an audit report"

Page 1, remove line 21

Page 2, line 1, remove "year,", remove "single page uniform", overstrike "financial" and insert immediately thereafter "single page uniform", and remove "prepared by the state auditor"

Page 2, line 2, overstrike "summarizing the", replace "audit report, the" with "of", and overstrike "of" and insert immediately thereafter "for"

Page 2, line 3, overstrike "commodity group for the current" and insert immediately thereafter "next", after "biennium" insert ". Each report, except the reports of North Dakota beekeepers association, and overstrike "anticipated" and insert immediately thereafter "North Dakota turkey federation, must also include a state auditor's report on the commodity group's single page uniform statement of"

Page 2, line 4, overstrike "next biennium" and insert immediately thereafter "previous two fiscal years"

Page 2, after line 4, insert:

"SECTION 4. AMENDMENT. Section 4-28-07 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

4-28-07. Wheat tax levy. A tax of five mills per bushel [35.24 liters] by weight must be levied and imposed upon all wheat grown in this state or sold through commercial channels ~~by a producer~~ to a first purchaser in this state. The tax must be levied and assessed at the time of sale and deducted by the purchaser from the price paid, or in the case of a lien, pledge, or mortgage, deducted from the proceeds of the loan or claim secured, subject to adjustment at the time of settlement in the event the number of bushels [liters] are not accurately determined at the time of the lien, pledge, or mortgage. At the time of sale, the first purchaser in this state shall issue and deliver to the producer or seller a record of the transaction in such manner as the commission may prescribe.

Any producer in the United States subject to the deduction provided in this chapter may, within sixty days following such deduction or final settlement, make application by personal letter to

the wheat commission for a refund application blank. Upon the return of the blank, properly executed by the producer, accompanied by a record of the deduction by the purchaser, the producer must be refunded the net amount of the deduction collected. If no request for refund has been made within the period prescribed above, then the producer is presumed to have agreed to such deduction. However, a producer in the United States, for any reason, having paid the tax more than once on the same wheat, upon furnishing proof of this to the commission, is entitled to a refund of the overpayment.

The commission, to inform the producer, shall develop and disseminate information and instructions relating to the purpose of the wheat tax and manner in which refunds may be claimed, and to this extent shall cooperate with governmental agencies, state and federal, and private businesses engaged in the purchase of wheat.

SECTION 5. AMENDMENT. Section 4-28-08 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

4-28-08. State wheat commission fund - Continuing appropriation. Each first purchaser shall make quarterly reports and returns to the commission, ~~on such forms as must be prescribed by the commission, on or before the twentieth day of the month next succeeding each calendar quarterly period, commencing with the calendar quarter ending September 30, 1959, and with 1995. The commission shall prescribe the forms to be used. The forms must provide for a separate accounting of the taxes levied on all wheat produced outside the United States. With each such report and return, the first purchaser shall remit to the commission, in the form of a remittance payable to the state treasurer, the tax due. The commission shall transmit all such payments to the state treasurer to be deposited in the state treasury to the credit of a special revolving fund to be known as the "state wheat commission fund". All money in the state wheat commission fund is appropriated on a continuing basis to the commission for carrying out the purposes of this chapter. Expenditures from such fund may be made upon vouchers duly approved by the commission to carry out the provisions of this chapter. Regular audits of the commission's accounts must be conducted in accordance with chapter 54-10.~~

SECTION 6. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1126: Government and Veterans Affairs Committee (Sen. Krebsbach, Chairman) recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).
HB 1126 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1127: Government and Veterans Affairs Committee (Sen. Krebsbach, Chairman) recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).
HB 1127 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1128: Government and Veterans Affairs Committee (Sen. Krebsbach, Chairman) recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).
HB 1128 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1188: Government and Veterans Affairs Committee (Sen. Krebsbach, Chairman) recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).
HB 1188 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1219, as engrossed: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1219 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1285: Transportation Committee (Sen. B. Stenehjem, Chairman) recommends DO PASS (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1285 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HCR 3027: Transportation Committee (Sen. B. Stenehjem, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS and BE PLACED ON THE CONSENT CALENDAR (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HCR 3027 was placed on the Sixth order on the calendar.

Page 2, remove lines 1 through 3

Page 2, line 12, remove "provide for flexibility in"

Page 2, remove line 13

Page 2, line 14, remove "toward Amtrak projects;"

Renumber accordingly

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

William C. Parker, Secretary