

## JOURNAL OF THE SENATE

## Fiftieth Legislative Assembly

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## FIFTY-SIXTH DAY

Bismarck, March 26, 1987

The Senate convened at 10:00 a.m., with President Pro Tem Redlin presiding.

The prayer was offered by Reverend Jonathan Starks, Word of Faith Church, Mandan.

Heavenly Father, we come before Your throne in the name of the Lord and Savior, Jesus Christ. You instructed us to pray for those who are in places of authority so that we may lead a tranquil and quiet life in all godliness and dignity. Therefore, I lift up these public servants of the people of North Dakota. You see the legislative issues that they must consider and make decisions about this day. They need wisdom for the decisions they make for they will not only affect the people from the communities they individually represent, their decisions will affect the lives of all the people of this state. Their task is not easy for the cry of the many can cause the voice of the few to go unheard and yet while the voice of the few should not be ignored, it should not be allowed to become the only voice. Grant these Senators ears to hear both voices, be they many or be they few, and then grant them wisdom to bring the greatest good for the people of this state.

Father, the task is great, but You said that we should trust in You with all of our hearts and lean not on our understanding but instead acknowledge You in all our ways. You said, "I will direct your paths." O, grant Thy direction this day for these leaders as we humbly ask in the name of the Lord, Jesus Christ. Amen.

## ROLL CALL

The roll was called and all Senators were present.

A quorum was declared by the President Pro Tem.

## CORRECTION AND REVISION OF THE JOURNAL

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

SEN. J. MEYER, Chairman

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

MESSAGES FROM THE HOUSE  
HOUSE CHAMBER

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

SB 2130

ROY GILBREATH, Chief Clerk

HOUSE CHAMBER

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

SB 2055, SB 2442, SB 2469

ROY GILBREATH, Chief Clerk

HOUSE CHAMBER

MR. PRESIDENT: I have the honor to return herewith SB 2120 and SB 2333 which the House has amended and subsequently failed to pass:

HOUSE AMENDMENTS TO SB 2120

On page 1, line 3, after the word "Dakota" insert the words "and the board of university and school lands"

On page 1, line 19, after the word "Dakota" insert the words "and board of university and school lands"

On page 1, line 21, delete the word "also" and insert in lieu thereof the words "property of the board of university and school lands,"

On page 1, line 22, delete the word "it" and insert in lieu thereof the word "either"

And renumber the lines, sections, and pages accordingly

HOUSE AMENDMENTS TO SB 2333

On page 2, line 21, after the letter "c." insert the numeral "(1)", after the word "is" insert the words "subject to a conditional sales contract that was made before July 1, 1987, is", remove the overstrike over the words "permanently attached to a foundation", after the word "and" insert an underscored comma, and remove the overstrike over the word "is"

On page 2, line 22, remove the overstrike over the words "assessed as real property," and after the word "provided" insert the words "and is"

On page 2, line 24, after the word "located" insert the following: ". (2) is not subject to a conditional sales contract that was made before July 1, 1987"

On page 2, line 25, delete the word "and" and after the word "property" insert the words ", and is owned by the owner of the land on which it is located"

On page 2, line 26, delete the word "subdivision" and insert in lieu thereof the word "paragraph"

On page 2, line 28, underscore the period

And renumber the lines, sections, and pages accordingly  
ROY GILBREATH, Chief Clerk

## HOUSE CHAMBER

MR. PRESIDENT: I have the honor to return herewith SB 2166, SB 2368, SB 2494, and SB 2535 which the House has amended and subsequently failed to pass:

## HOUSE AMENDMENTS TO SB 2166

On page 1, line 20, after the word "fee" insert the words ", not to exceed fifty dollars for an acute care hospital nor twenty-five dollars for a skilled nursing facility or an intermediate care facility,"

And renumber the lines, sections, and pages accordingly

## HOUSE AMENDMENTS TO ENGROSSED SB 2368

On page 1 of the engrossed bill, line 18, overstrike the word "two" and insert immediately thereafter the word "three"

And renumber the lines, sections, and pages accordingly

## HOUSE AMENDMENTS TO ENGROSSED SB 2494

On page 2 of the engrossed bill, line 9, after the word "appointed" insert the words "or selected"

On page 2 of the engrossed bill, line 13, delete the words "The president" and insert in lieu thereof the words "One senator selected by a majority of the members" and delete the words "of this state"

On page 2 of the engrossed bill, line 14, delete the words "appoint one senator" and insert in lieu thereof the word "serve"

On page 2 of the engrossed bill, line 15, delete the words "The speaker" and insert in lieu thereof the words "One representative selected by a majority of the members" and delete the words "of this"

On page 2 of the engrossed bill, line 16, delete the word "state" and delete the words "appoint one representative" and insert in lieu thereof the word "serve"

- On page 2 of the engrossed bill, line 17, after the word "appointed" insert the words "or selected"
- And renumber the lines, sections, and pages accordingly
- HOUSE AMENDMENTS TO ENGROSSED SB 2535
- On page 1 of the engrossed bill, line 7, delete the words "a penalty" and insert in lieu thereof the words "for a judicial remedy"
- On page 2 of the engrossed bill, line 6, after the word "base" insert the words "or is available from the North Dakota peer review organization"
- On page 2 of the engrossed bill, line 13, delete the words "by diagnosis" and delete the words "diagnoses, annual" and insert in lieu thereof the words "diagnosis-related groups"
- On page 2 of the engrossed bill, line 14, delete the words "operating costs, revenues, capital expenditures,"
- On page 2 of the engrossed bill, line 15, delete the word "average"
- On page 2 of the engrossed bill, line 16, delete the words "source of payment and"
- On page 2 of the engrossed bill, line 22, delete the words "by source of"
- On page 2 of the engrossed bill, delete line 23
- On page 2 of the engrossed bill, line 24, delete the words "operating expenses, capital expenditures, and revenues"
- On page 2 of the engrossed bill, line 27, after the word "agencies" insert the words "or the North Dakota peer review organization"
- On page 2 of the engrossed bill, line 28, delete the word "diagnosis" and insert in lieu thereof the words "diagnosis-related groups"
- On page 2 of the engrossed bill, line 29, delete the word "average"
- On page 2 of the engrossed bill, line 30, delete the words "and by source of payment"
- On page 2 of the engrossed bill, line 31, delete the words "The committee shall set procedures that" and insert in lieu thereof the words "Prior to publication of any hospital or long-term facility-specific data, the committee shall notify the affected facility of the data to be published."

The facility has thirty days to respond and comment. The committee shall take any comments received into consideration before publication"

On page 2 of the engrossed bill, delete lines 32 and 33

On page 2 of the engrossed bill, line 34, delete the word "decisions"

On page 3 of the engrossed bill, line 6, delete the words "The committee may require hospitals,"

On page 3 of the engrossed bill, delete lines 7 through 10

On page 3 of the engrossed bill, line 12, after the word "among" insert the words "the North Dakota peer review organization,"

On page 3 of the engrossed bill, line 17, delete the word "these" and insert in lieu thereof the word "state"

On page 3 of the engrossed bill, line 19, after the word "agencies" insert the words "and the North Dakota peer review organization"

On page 4 of the engrossed bill, line 16, delete the words "The council" and insert in lieu thereof the words "Any person with an interest"

On page 4 of the engrossed bill, line 17, delete the words "in the name of the state"

On page 4 of the engrossed bill, delete lines 19 through 23

And renumber the lines, sections, and pages accordingly

ROY GILBREATH, Chief Clerk

#### HOUSE CHAMBER

MR. PRESIDENT: I have the honor to return herewith SB 2019, SB 2024, SB 2053, SB 2115, SB 2128, SB 2259, SB 2435, and SB 2542 which the House has amended, and subsequently passed:

#### HOUSE AMENDMENTS TO ENGROSSED SB 2019

On page 1 of the engrossed bill, line 7, delete the numerals "5,000,000" and insert in lieu thereof the numerals "5,200,000"

And renumber the lines, sections, and pages accordingly

#### STATEMENT OF PURPOSE OF AMENDMENT:

The amendment increases the appropriation for insurance premiums to fire departments payments by \$200,000, from \$5,000,000 to

\$5,200,000, or the same amount appropriated for the 1985-87 biennium.

HOUSE AMENDMENTS TO ENGROSSED SB 2024

- On page 1 of the engrossed bill, line 25, delete the numerals "407,884" and insert in lieu thereof the numerals "387,884"
- On page 1 of the engrossed bill, line 26, delete the numerals "8,673" and insert in lieu thereof the numerals "3,673"
- On page 2 of the engrossed bill, line 2, delete the numerals "1,888,748" and insert in lieu thereof the numerals "1,863,748"
- On page 2 of the engrossed bill, line 9, delete the numerals "10,000" and insert in lieu thereof the numerals "7,000"
- On page 2 of the engrossed bill, line 10, delete the numerals "54,258" and insert in lieu thereof the numerals "51,258"
- On page 2 of the engrossed bill, line 16, delete the numerals "21,786" and insert in lieu thereof the numerals "17,786"
- On page 2 of the engrossed bill, delete line 17
- On page 2 of the engrossed bill, line 18, delete the numerals "278,758" and insert in lieu thereof the numerals "264,758"
- On page 2 of the engrossed bill, line 20, delete the numerals "2,321,764" and insert in lieu thereof the numerals "2,279,764"

And renumber the lines, sections, and pages accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

Insurance Commissioner

The amendments reduce the Insurance Commissioner's appropriation by \$25,000. An analysis of the \$25,000 net reduction is as follows:

	<u>Other Funds</u> <u>Increase (Decrease)</u>
<u>Operating expenses</u>	
Building lease rental	\$(10,000)
Travel	(15,000)
Allow funding for Conference of Insurance Legislators (COIL)	5,000
(\$1,000 for dues and \$4,000 for travel)	_____

Total operating expenses	\$ (20,000)
<u>Data processing</u>	<u>\$ (5,000)</u>
Total	\$(25,000)

Bonding Fund

Funding for the bonding fund is decreased by \$3,000 from the equipment line item.

Fire and Tornado Fund

Funding for the fire and tornado fund is decreased by a total of \$14,000. Of the total, \$4,000 is from equipment and \$10,000 is from the deletion of the contingency line item.

## HOUSE AMENDMENTS TO ENGROSSED SB 2053

On page 1 of the engrossed bill, line 20, overstrike the words "and no" and insert immediately thereafter the words "except for the"

On page 2 of the engrossed bill, line 13, after the word "support" insert the words "and which have been in effect for a period of at least one year"

And renumber the lines, sections, and pages accordingly

## HOUSE AMENDMENTS TO ENGROSSED SB 2115

On page 1 of the engrossed bill, line 5, delete the second word "and" and insert in lieu thereof a comma and after the word "city" insert the words ", and park district"

On page 2 of the engrossed bill, line 2, after the word "city" insert the words "or park district"

On page 2 of the engrossed bill, line 26, delete the numeral "6" and insert in lieu thereof the numeral "5"

On page 3 of the engrossed bill, line 1, after the word "city" insert the words "or park district"

On page 3 of the engrossed bill, line 9, after the word "city" insert the words "or park district"

On page 3 of the engrossed bill, line 12, delete the numeral "4" and insert in lieu thereof the numeral "3"

On page 3 of the engrossed bill, line 13, delete the numeral "5" and insert in lieu thereof the numeral "4"

On page 3 of the engrossed bill, line 18, after the word "city" insert the words "or park district"

- On page 3 of the engrossed bill, line 20, after the word "may" insert the words "be used to fund an intergovernmental program under a joint powers agreement pursuant to chapter 54-40, but may"
- On page 3 of the engrossed bill, line 25, after the word "city" insert the words "or park district"
- On page 3 of the engrossed bill, line 30, after the word "city" insert the words "or park district"
- On page 3 of the engrossed bill, line 34, delete the word "of" and insert in lieu thereof the words "voting in an election in", delete the word "or" and insert in lieu thereof a comma, after the word "city" insert the words ", or park district", and delete the words "directing the governing"
- On page 3 of the engrossed bill, line 35, delete the words "body to do so"

And renumber the lines, sections, and pages accordingly

HOUSE AMENDMENTS TO ENGROSSED SB 2128

- On page 1 of the engrossed bill, line 14, delete the word "fifty" and insert in lieu thereof the word "twenty-five"
- On page 1 of the engrossed bill, line 16, delete the first comma and insert in lieu thereof the word "and" and delete the word "and"
- On page 1 of the engrossed bill, line 17, delete the words "supplies if performed outside the state,"
- On page 3 of the engrossed bill, line 9, delete the word "twenty" and insert in lieu thereof the word "ten"

And renumber the lines, sections, and pages accordingly

HOUSE AMENDMENTS TO REENGROSSED SB 2259

- On page 1 of the reengrossed bill, line 2, delete the words "; and to"
- On page 1 of the reengrossed bill, line 3, delete the words "provide for a transfer of funds"
- On page 5 of the reengrossed bill, line 29, remove the overstrike over the words "~~Every trailer, semitrailer, or farm~~"
- On page 5 of the reengrossed bill, remove the overstrike on lines 30 through 32
- On page 8 of the reengrossed bill, delete lines 19 through 22
- And renumber the lines, sections, and pages accordingly

## HOUSE AMENDMENTS TO SB 2435

On page 1, line 1, after the word "reenact" insert the word and numeral "section 15-55-02.1,"

On page 1, line 4, after the word "by" insert the words "the state board of higher education,"

On page 1, after line 8, insert the following new section:

"SECTION 1. AMENDMENT. Section 15-55-02.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-55-02.1. Refunding bonds. ~~The amount of refunding bonds which the state board of higher education may issue under this chapter shall not exceed the principal amount of the bonds to be refunded.~~ Bonds may be refunded ~~whether heretofore or hereafter issued,~~ but no bonds may be refunded ~~hereunder~~ under this chapter unless ~~they~~ the bonds either mature or are callable for prior redemption under their terms within thirty years from the date of issuance of the refunding bonds, or unless the holder or holders ~~thereof~~ of the bonds voluntarily surrender them for exchange or payment. Outstanding bonds of more than one issue or series and bonds for refunding and other bonds to construct, furnish, or equip any building or addition or other campus improvement for which bonds are authorized may be combined into one issue or series and may provide for and restrict the combination of future series with the issue. Except as ~~in this section~~ otherwise provided, ~~such in this section,~~ the bonds shall must have such details and ~~shall~~ must be authorized and issued in the manner ~~provided in this chapter~~ provided. Refunding bonds so issued may carry forward for the payment of the refunding bonds such security and sources of payment as were pledged to the payment of the bonds refunded, and a combined issue of refunding and other bonds may combine such security and sources of payment with a pledge of the revenues of buildings or other campus improvements acquired in whole or in part from the proceeds of the issue, including the security and sources of payment of any future series of refunding bonds or revenues of any building or other campus improvement acquired from the proceeds of a future series if and to the extent that provision is made for combination of future series with the issue. The word "building" as used in this section ~~shall be construed to refer to~~ means all the buildings or other campus improvements the revenues of which are pledged. Any bonds issued for refunding purposes may ~~either~~ be delivered in exchange for the outstanding bonds authorized to be refunded ~~or may be~~ sold at either public or private sale, ~~or may be~~ sold in part and exchanged in part. There ~~shall be~~ is no interest rate ceiling on those issues issued solely for refunding purposes. The sale price may exceed the principal amount

of refunding bonds and the excess may be used to provide for payment of redemption premiums of the bonds to be refunded and to provide for expenses of the issuance and sale of the bonds and the retirement of the outstanding bonds. All other proceeds of the sale shall must be, to the extent needed, be immediately applied to the retirement of the bonds to be refunded, or such the proceeds or investments thereof shall must be placed in escrow to be held and applied to the payment of the bonds to be refunded, or in the case of crossover refunding, must be invested in securities irrevocably appropriated to the payment of principal and interest on the refunding bonds until the date the proceeds are applied to the payment or redemption of the bonds to be refunded.

Such The proceeds may, in the discretion or pursuant to covenant of the board, be invested in obligations of the United States of America, or in obligations fully guaranteed by the United States of America, but the obligations so purchased must have such maturities and bear such rates of interest payable at such times as will assure the existence of money sufficient to pay the bonds to be refunded when due or when redeemed pursuant to call for redemption, together with any interest and redemption premiums, if any. The proceeds or obligations so purchased shall must be deposited in trust with the trustee for the refunded bonds, or with the banking corporation or association which is the paying agent for the refunded bonds, or with the state treasurer, to be held, liquidated, and the proceeds of such liquidation paid out for the payment of the bonds to be refunded and interest and redemption premiums thereon as such the refunded bonds become due or subject to redemption under call for redemption previously made, or upon earlier voluntary surrender thereof with the consent of the board. The determination of the board in issuing refunding bonds that the issuance and sale of refunding bonds is necessary for the best interests of the institution and that the limitations herein imposed upon the issuance of refunding bonds have been met shall be is conclusive in the absence of fraud or arbitrary and gross abuse of discretion."

And renumber the lines, sections, and pages accordingly

HOUSE AMENDMENTS TO ENGROSSED SB 2542

On page 1 of the engrossed bill, line 3, delete the words "; and to provide for transition"

On page 2 of the engrossed bill, line 3, delete the word "shall" and insert in lieu thereof the words "of motor vehicles may" and delete the words "a three-member" and insert in lieu thereof the words "an advisory"

On page 2 of the engrossed bill, delete lines 4 through 10

- On page 2 of the engrossed bill, line 11, delete the words "terms under this subsection. The committee shall"
- On page 2 of the engrossed bill, line 14, delete the words "with the approval of the"
- On page 2 of the engrossed bill, line 15, delete the word "committee", after the word "charge" insert an underscored comma, and delete the word "six" and insert in lieu thereof the word "two"
- On page 2 of the engrossed bill, line 16, after the word "dollars" insert the words "per year or part of a year,"
- On page 2 of the engrossed bill, line 22, delete the word "The"
- On page 2 of the engrossed bill, delete line 23
- On page 2 of the engrossed bill, line 24, delete the word "committee."
- On page 2 of the engrossed bill, line 27, delete the words "of three years from the date of issuance" and insert in lieu thereof the words "determined by the registrar"
- On page 2 of the engrossed bill, line 35, delete the words "and five dollars" and insert in lieu thereof the words ". The rest of the fee"
- On page 3 of the engrossed bill, line 5, after the word "state" insert the words ". If a certificate is lost, mutilated, or destroyed, the person to whom the certificate was issued is entitled to a replacement certificate. The person shall furnish proof satisfactory to the registrar that the certificate has been lost, mutilated, or destroyed, and shall pay a replacement fee of three dollars"
- On page 3 of the engrossed bill, line 7, delete the word "committee" and insert in lieu thereof the words "registrar of motor vehicles"
- On page 3 of the engrossed bill, line 11, delete the word "committee" and insert in lieu thereof the word "registrar"
- On page 3 of the engrossed bill, line 12, delete the word "committee" and insert in lieu thereof the word "registrar"
- On page 4 of the engrossed bill, delete lines 12 through 15
- And renumber the lines, sections, and pages accordingly  
ROY GILBREATH, Chief Clerk

## SIGNING OF BILLS AND RESOLUTIONS

THE SECRETARY ANNOUNCED that the President Pro Tem signed the following:

HB 1034, HB 1330, HB 1533

PERRY GROTEBERG, Secretary

MESSAGES TO THE HOUSE  
SENATE CHAMBER

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

HB 1034, HB 1330, HB 1533

PERRY GROTEBERG, Secretary

## SENATE CHAMBER

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

HB 1041, HB 1042, HB 1151, HB 1171

PERRY GROTEBERG, Secretary

## SENATE CHAMBER

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

HB 1030, HB 1038, HB 1051, HB 1062, HB 1131, HB 1150,  
HB 1161, HB 1187, HB 1192, HB 1227, HB 1242, HB 1325,  
HB 1332, HB 1406, HB 1416, HB 1463, HB 1529, HB 1604,  
HB 1631, HCR 3003, HCR 3062

PERRY GROTEBERG, Secretary

## SENATE CHAMBER

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

HB 1063, HB 1123, HB 1394, HB 1526, HB 1640

PERRY GROTEBERG, Secretary

## REPORTS OF STANDING COMMITTEES

MR. PRESIDENT: Your Committee on Industry, Business and Labor to which was referred SB 2553 has had the same under consideration and recommends by a vote of 7 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING that the same BE AMENDED AS FOLLOWS and when so amended, recommends the same DO PASS:

On page 1, line 19, after the first comma insert the words "that are permanently"

And renumber the lines, sections, and pages accordingly

SEN. LANGLEY, Chairman

SB 2553 was placed on the Sixth order of business on the calendar for the succeeding legislative day.

**MR. PRESIDENT:** Your Committee on Joint Constitutional Revision to which was referred SCR 4055 has had the same under consideration and recommends by a vote of 9 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING that the same BE AMENDED AS FOLLOWS and when so amended, recommends the same DO NOT PASS:

On page 1, line 1, delete the word "sections" and insert in lieu thereof the word "section" and delete the word and numeral "and 5"

On page 1, line 3, delete the words "and the filing"

On page 1, line 4, delete the word "deadline"

On page 1, line 11, delete the word "ten" and insert in lieu thereof the word "five"

On page 1, line 12, delete the words "and that a petition must be submitted"

On page 1, line 13, delete the words "within one hundred eighty days after the filing of the measure"

On page 1, line 16, delete the word "amendments" and insert in lieu thereof the word "amendment", delete the word "sections" and insert in lieu thereof the word "section", and delete the word and numeral "and 5"

On page 1, line 17, delete the word "are" and insert in lieu thereof the word "is"

On page 2, line 4, delete the word "ten" and insert in lieu thereof the word "five"

On page 2, delete lines 6 through 24

And renumber the lines, sections, and pages accordingly

SEN. STROMME, Chairman

SCR 4055 was placed on the Sixth order of business on the calendar for the succeeding legislative day.

**MR. PRESIDENT:** Your Committee on Human Services and Veterans Affairs to which was referred HB 1033 has had the same under consideration and recommends by a vote of 4 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING that the same BE AMENDED AS FOLLOWS and when so amended, recommends the same DO PASS and be rereferred to the Committee on Appropriations:

On page 1, line 1, after the numeral "50-06" insert the words and numerals "and a new subdivision to subsection 1 of section 54-07-01.2"

- On page 1, line 3, after the word "board" insert the words "and the power of the governor to appoint a majority of members of certain boards and commissions"
- On page 1, line 4, delete the word "and" and after the numerals "50-06-05.1" insert the word and numerals ", 50-01-16, and 50-06-17"
- On page 1, line 6, after the word "services" insert the words "; and to provide an effective date"
- On page 2, line 11, delete the words "Board to set policy -"
- On page 2, line 12, delete the words "board shall"
- On page 2, delete lines 13 and 14
- On page 2, line 15, delete the first word "The"
- On page 2, line 25, after the word "expenses" insert the word "- Responsibilities"
- On page 2, line 26, delete the word "nine" and insert in lieu thereof the word "seven"
- On page 2, line 27, after the first word "governor" insert the words ", with the consent of the senate" and delete the words "The governor shall appoint one"
- On page 2, delete lines 28 and 29
- On page 2, line 30, delete the words and numeral "1978, and one member shall be appointed at large."
- On page 2, line 34, delete the numerals "1987" and insert in lieu thereof the numerals "1988"
- On page 2, line 35, delete the numerals "1989" and insert in lieu thereof the numerals "1990"
- On page 3, line 1, delete the first word "three" and insert in lieu thereof the word "two", delete the numerals "1991" and insert in lieu thereof the numerals "1992", and delete the second word "three" and insert in lieu thereof the word "two"
- On page 3, line 2, delete the numerals "1993" and insert in lieu thereof the numerals "1994"
- On page 3, line 9, delete the numerals "1987" and insert in lieu thereof the numerals "1988"
- On page 3, line 10, delete the words "a president,"

On page 3, line 13, after the underscored period insert the words "The governor or the governor's designee, who may not be the executive director of the department, shall act as president of the board." and delete the word "monthly" and insert in lieu thereof the word "quarterly"

On page 3, line 14, after the word "times" insert the words "as the executive director determines necessary or"

On page 3, after line 22, insert the following new subsection:

"4. The board shall establish administrative policy for the department which is to be implemented by the executive director. The board may advise the governor concerning the appointment or reappointment of an executive director. The board shall advise the executive director with respect to issues and concerns arising from the executive director's administrative activities and other relevant matters at the request of the executive director."

On page 4, line 28, remove the overstrike over the word "department" and delete the word "board"

On page 4, line 29, remove the overstrike over the word "department" and delete the word "board"

On page 4, line 30, after the word "administered" insert the words "under the direction of the board"

On page 6, line 10, remove the overstrike over the word "department" and delete the word "board"

On page 6, line 19, overstrike the word "shall" and insert immediately thereafter the word "may"

On page 8, after line 25, insert the following new sections:

"SECTION 7. AMENDMENT. Section 50-06-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-06-16. Authority to adopt rules. The department may adopt rules necessary to carry out ~~its~~ the responsibilities of the department under this chapter. All rules ~~adopted shall~~ must be approved by the board before adoption and must be published in the North Dakota Administrative Code. Rules adopted by agencies prior to January 1, 1982, which relate to functions or agencies covered by this chapter shall remain in effect until such time as they are specifically amended or repealed by the department.

**SECTION 8. AMENDMENT.** Section 50-06-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-06-17. Biennial report to governor and office of management and budget - Budget estimates. The department shall submit to the governor and the office of management and budget a board shall review and approve the biennial report as prescribed by section and budget estimate prepared and submitted by the department pursuant to sections 54-06-04 and 54-44.1-04.

**SECTION 9.** A new subdivision to subsection 1 of section 54-07-01.2 of the North Dakota Century Code is hereby created and enacted to read as follows:

The human services board.

**SECTION 10. EFFECTIVE DATE.** This Act becomes effective on July 1, 1988."

And renumber the lines, sections, and pages accordingly  
SEN. J. MEYER, Chairman

HB 1033 was placed on the Sixth order of business on the calendar for the succeeding legislative day.

**MR. PRESIDENT:** Your Committee on Human Services and Veterans Affairs to which was referred HB 1156 has had the same under consideration and recommends by a vote of 6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING that the same BE AMENDED AS FOLLOWS and when so amended, recommends the same DO PASS:

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  
SEN. J. MEYER, Chairman

HB 1156 was placed on the Sixth order of business on the calendar for the succeeding legislative day.

**MR. PRESIDENT:** Your Committee on Human Services and Veterans Affairs to which was referred HB 1174 has had the same under consideration and recommends by a vote of 7 YEAS, 0 NAYS,

O ABSENT AND NOT VOTING that the same BE AMENDED AS FOLLOWS and when so amended, recommends the same DO PASS:

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  
SEN. J. MEYER, Chairman

HB 1174 was placed on the Sixth order of business on the calendar for the succeeding legislative day.

MR. PRESIDENT: Your Committee on Human Services and Veterans Affairs to which was referred HB 1183 has had the same under consideration and recommends by a vote of 5 YEAS, 1 NAY, 1 ABSENT AND NOT VOTING that the same BE AMENDED AS FOLLOWS and when so amended, recommends the same DO PASS:

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  
SEN. J. MEYER, Chairman

HB 1183 was placed on the Sixth order of business on the calendar for the succeeding legislative day.

MR. PRESIDENT: Your Committee on Human Services and Veterans Affairs to which was referred HB 1329 has had the same under

consideration and recommends by a vote of 7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING that the same BE AMENDED AS FOLLOWS and when so amended, recommends the same DO PASS:

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  
SEN. J. MEYER, Chairman

HB 1329 was placed on the Sixth order of business on the calendar for the succeeding legislative day.

MR. PRESIDENT: Your Committee on Human Services and Veterans Affairs to which was referred HB 1448 has had the same under consideration and recommends by a vote of 6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING that the same BE AMENDED AS FOLLOWS and when so amended, recommends the same DO PASS:

On page 3 of the engrossed bill, line 17, delete the word "thirtieth" and insert in lieu thereof the word "thirty-first"

On page 4 of the engrossed bill, line 22, after the underscored period insert the words "After January 1, 1990, no medical assistance payments may be made to any nursing home unless the nursing home, using the mechanism established by the department for preadmission assessment, assesses the health and social needs of each person making application for admission to the nursing home."

On page 11 of the engrossed bill, line 17, delete the words "so that the"

On page 11 of the engrossed bill, line 18, delete the words "material arrives at the designed"

On page 11 of the engrossed bill, line 19, delete the word "address"

And renumber the lines, sections, and pages accordingly  
SEN. J. MEYER, Chairman

HB 1448 was placed on the Sixth order of business on the calendar for the succeeding legislative day.

MR. PRESIDENT: Your Committee on Industry, Business and Labor to which was rereferred HB 1506 has had the same under consideration and recommends by a vote of 6 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING that the same BE AMENDED AS FOLLOWS and when so amended, recommends the same DO PASS:

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

SEN. LANGLEY, Chairman

HB 1506 was placed on the Sixth order of business on the calendar for the succeeding legislative day.

MR. PRESIDENT: Your Committee on Judiciary to which was referred HB 1557 has had the same under consideration and recommends by a vote of 6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING that the same BE

AMENDED AS FOLLOWS and when so amended, recommends the same DO PASS:

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.

**Actual knowledge required.** In order to be prosecuted under this Act, the person must have had actual knowledge that the woman was pregnant at the time of the act.

**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  
SEN. LASHKOWITZ, Chairman

HB 1557 was placed on the Sixth order of business on the calendar for the succeeding legislative day.

**MR. PRESIDENT:** Your Committee on Human Services and Veterans Affairs to which was referred HCR 3028 has had the same under consideration and recommends by a vote of 6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING that the same BE AMENDED AS FOLLOWS and when so amended, recommends the same DO PASS:

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  
SEN. J. MEYER, Chairman

HCR 3028 was placed on the Sixth order of business on the calendar for the succeeding legislative day.

**MR. PRESIDENT:** Your Committee on Human Services and Veterans Affairs to which was referred HCR 3057 has had the same under consideration and recommends by a vote of 6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING that the same BE AMENDED AS FOLLOWS and when so amended, recommends the same DO PASS:

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  
SEN. J. MEYER, Chairman

HCR 3057 was placed on the Sixth order of business on the calendar for the succeeding legislative day.

**MR. PRESIDENT:** Your Committee on Human Services and Veterans Affairs to which was referred HCR 3080 has had the same under consideration and recommends by a vote of 7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING that the same BE AMENDED AS FOLLOWS and when so amended, recommends the same DO PASS and BE PLACED ON THE CONSENT CALENDAR:

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

And renumber the lines, sections, and pages accordingly  
SEN. J. MEYER, Chairman

HCR 3080 was placed on the Sixth order of business on the calendar for the succeeding legislative day.

**MR. PRESIDENT:** Your Committee on Human Services and Veterans Affairs to which was referred HCR 3084 has had the same under consideration and recommends by a vote of 7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING that the same BE AMENDED AS FOLLOWS and when so amended, recommends the same DO PASS and BE PLACED ON THE CONSENT CALENDAR:

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  
SEN. J. MEYER, Chairman

HCR 3084 was placed on the Sixth order of business on the calendar for the succeeding legislative day.

**MR. PRESIDENT:** Your Committee on Judiciary to which was referred HB 1474 has had the same under consideration and recommends by a vote of 7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING that the same DO PASS.

SEN. LASHKOWITZ, Chairman

HB 1474 was placed on the Fourteenth order of business on the calendar for the succeeding legislative day.

#### CONSIDERATION OF AMENDMENTS

**SEN. LASHKOWITZ MOVED** that the amendments to SB 2547 as recommended by the Committee on Judiciary as printed on pages 1760-1761 of the Senate Journal be adopted, and when so adopted, recommends the same DO PASS, which motion prevailed.

SB 2547 was placed on the Eleventh order of business on the calendar for the succeeding legislative day.

#### MOTION

**SEN. HEIGAARD MOVED** that SCR 4013, which is on the Sixth order, be laid over two legislative days, which motion prevailed.

#### CONSIDERATION OF AMENDMENTS

**SEN. STROMME MOVED** that the amendments to SCR 4014 as recommended by the Committee on Joint Constitutional Revision as printed on pages 1762-1763 of the Senate Journal be adopted, and when so adopted, recommends the same BE PLACED ON THE CALENDAR WITHOUT RECOMMENDATION, which motion prevailed.

#### SECOND READING OF SENATE CONCURRENT RESOLUTION

**SCR 4014:** A concurrent resolution for the amendment of sections 12 and 13 of article V and section 12 of article X of the Constitution of the State of North Dakota, relating to the office of state treasurer; to repeal section 15 of

article XII of the Constitution of the State of North Dakota, relating to the duties of state treasurer on issuance of legal tender by banks in the state; and to provide an effective date.

Which has been read and is placed on the calendar without recommendation.

ROLL CALL

The question being on the final adoption of the resolution, as amended, the roll was called and there were 15 YEAS, 38 NAYS, 0 ABSENT AND NOT VOTING.

YEAS: Heinrich; Holmberg; Ingstad; Moore; Mushik; Nalewaja; Nelson; Nething; Olson; Peterson; Redlin; Satrom; Stenehjem; Todd; Vosper

NAYS: Adams; Axtman; Bakewell; David; Dotzenrod; Freborg; Heigaard; Hilken; Keller; Kelly; Kelsh; Krauter; Langley; Lashkowitz; Lips; Lodoen; Maixner; Mathern; Maxson; Meyer, D.; Meyer, J.; Meyer, W.; Mutch; Naaden; Reiten; Richard; Schoenwald; Shea; Streibel; Stromme; Tallackson; Tennefos; Thane; Tweten; Waldera; Wogsland; Wright; Yockim

ABSENT AND NOT VOTING: None

SCR 4014 was declared lost on a roll call vote.

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MESSAGE FROM THE HOUSE  
HOUSE CHAMBER

MR. PRESIDENT: I have the honor to inform you that the House has concurred in the Senate amendments to HB 1598 and subsequently passed the same but has refused to concur in the Senate amendments to HB 1228 and the Speaker has appointed as a conference committee to act with a like committee from the Senate on:

HB 1228: Reps. O. Hanson, Knell, Hokana  
ROY GILBREATH, Chief Clerk

CONSIDERATION OF AMENDMENTS

SEN. STORMME MOVED that the amendments to SCR 4047 as recommended by the Committee on Joint Constitutional Revision as printed on page 1763 of the Senate Journal be adopted, and when so adopted, recommends the same DO PASS, which motion prevailed.

SECOND READING OF SENATE CONCURRENT RESOLUTION

SCR 4047: A concurrent resolution for the amendment of section 5 of article X of the Constitution of the State of North Dakota, relating to taxation of property owned by the

United States when Congress has waived exemption of the property.

Which has been read and has committee recommendation of DO PASS.

#### ROLL CALL

The question being on the final adoption of the resolution, as amended, the roll was called and there were 52 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING.

YEAS: Adams; Axtman; Bakewell; David; Dotzenrod; Freborg; Heigaard; Heinrich; Hilken; Holmberg; Ingstad; Keller; Kelly; Kelsh; Krauter; Langley; Lashkowitz; Lips; Lodoen; Maixner; Mathern; Maxson; Meyer, D.; Meyer, J.; Meyer, W.; Moore; Mushik; Mutch; Naaden; Nalewaja; Nelson; Nething; Olson; Peterson; Redlin; Reiten; Richard; Schoenwald; Shea; Stenehjem; Streibel; Stromme; Tallackson; Tennefos; Thane; Todd; Tweten; Vosper; Waldera; Wogsland; Wright; Yockim

NAYS: None

ABSENT AND NOT VOTING: Satrom

SCR 4047 was declared adopted and the title was agreed to on a roll call vote.

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#### CONSIDERATION OF AMENDMENTS

SEN. LASHKOWITZ MOVED that the amendments to HB 1080 as recommended by the Committee on Judiciary as printed on page 1763 of the Senate Journal be adopted, and when so adopted, recommends the same DO PASS, which motion prevailed.

#### SECOND READING OF HOUSE BILL

HB 1080: A BILL for an Act to provide immunity from civil liability to volunteers providing services for nonprofit organizations and sports teams; and to declare an emergency.

Which has been read and has committee recommendation of DO PASS.

#### ROLL CALL

The question being on the final passage of the bill, as amended, the roll was called and there were 53 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING.

YEAS: Adams; Axtman; Bakewell; David; Dotzenrod; Freborg; Heigaard; Heinrich; Hilken; Holmberg; Ingstad; Keller; Kelly; Kelsh; Krauter; Langley; Lashkowitz; Lips; Lodoen; Maixner; Mathern; Maxson; Meyer, D.; Meyer, J.; Meyer, W.; Moore; Mushik; Mutch; Naaden; Nalewaja; Nelson; Nething; Olson; Peterson; Redlin; Reiten;

Richard; Satrom; Schoenwald; Shea; Stenehjem; Streibel;  
Stromme; Tallackson; Tennefos; Thane; Todd; Tweten;  
Vosper; Waldera; Wogsland; Wright; Yockim

NAYS: None

ABSENT AND NOT VOTING: None

HB 1080 passed, the title was agreed to, and the emergency clause carried.

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#### CONSIDERATION OF AMENDMENTS

SEN. LASHKOWITZ MOVED that the amendments to HB 1221 as recommended by the Committee on Judiciary as printed on pages 1763-1764 of the Senate Journal be adopted, and when so adopted, recommends the same DO PASS, which motion prevailed.

#### MOTION

SEN. STENEHJEM MOVED that HB 1221, which is on the Fourteenth order, be laid over one legislative day, which motion prevailed.

#### CONSIDERATION OF AMENDMENTS

SEN. SATROM MOVED that the amendments to HB 1240 as recommended by the Committee on Finance and Taxation as printed on page 1764 of the Senate Journal be adopted, and when so adopted, recommends the same DO PASS, which motion prevailed.

#### SECOND READING OF HOUSE BILL

HB 1240: A BILL for an Act to amend and reenact subdivisions m and n of subsection 1 of section 57-38-01.2, section 57-38-35.1, subsection 2 of section 57-38-38, subsection 2 of section 57-38-40, subsection 3 of section 57-38-42, sections 57-38-64, 57-38-70, 57-38-71, 57-38-72, and 57-38-74 of the North Dakota Century Code, relating to income tax procedures; and to repeal chapter 57-38.2 of the North Dakota Century Code, relating to income averaging.

Which has been read and has committee recommendation of DO PASS.

#### ROLL CALL

The question being on the final passage of the bill, as amended, the roll was called and there were 53 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING.

YEAS: Adams; Axtman; Bakewell; David; Dotzenrod; Freborg;  
Heigaard; Heinrich; Hilken; Holmberg; Ingstad; Keller;  
Kelly; Kelsh; Krauter; Langley; Lashkowitz; Lips;  
Lodoen; Maixner; Mathern; Maxson; Meyer, D.; Meyer, J.;  
Meyer, W.; Moore; Mushik; Mutch; Naaden; Nalewaja;  
Nelson; Nething; Olson; Peterson; Redlin; Reiten;  
Richard; Satrom; Schoenwald; Shea; Stenehjem; Streibel;

Stromme; Tallackson; Tennefos; Thane; Todd; Tweten;  
Vosper; Waldera; Wogsland; Wright; Yockim

NAYS: None

ABSENT AND NOT VOTING: None

HB 1240 passed and the title was agreed to.

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#### CONSIDERATION OF AMENDMENTS

SEN. LASHKOWITZ MOVED that the amendments to HB 1266 as recommended by the Committee on Judiciary as printed on pages 1764-1765 of the Senate Journal be adopted, and when so adopted, recommends the same DO PASS, which motion prevailed.

#### SECOND READING OF HOUSE BILL

HB 1266: A BILL for an Act to amend and reenact subsection 6 of section 35-24-01 and section 35-24-02 of the North Dakota Century Code, relating to definitions and well and pipeline construction liens.

Which has been read and has committee recommendation of DO PASS.

#### ROLL CALL

The question being on the final passage of the bill, as amended, the roll was called and there were 53 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING.

YEAS: Adams; Axtman; Bakewell; David; Dotzenrod; Freborg; Heigaard; Heinrich; Hilken; Holmberg; Ingstad; Keller; Kelly; Kelsh; Krauter; Langley; Lashkowitz; Lips; Lodoen; Maixner; Mathern; Maxson; Meyer, D.; Meyer, J.; Meyer, W.; Moore; Mushik; Mutch; Naaden; Nalewaja; Nelson; Nething; Olson; Peterson; Redlin; Reiten; Richard; Satrom; Schoenwald; Shea; Stenehjem; Streibel; Stromme; Tallackson; Tennefos; Thane; Todd; Tweten; Vosper; Waldera; Wogsland; Wright; Yockim

NAYS: None

ABSENT AND NOT VOTING: None

HB 1266 passed and the title was agreed to.

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#### CONSIDERATION OF AMENDMENTS

SEN. DOTZENROD MOVED that the amendments to HB 1426 as recommended by the Committee on Political Subdivisions as printed on page 1766 of the Senate Journal be adopted, and when so adopted, recommends the same DO PASS, which motion prevailed.

## SECOND READING OF HOUSE BILL

HB 1426: A BILL for an Act to amend and reenact sections 52-09-08 and 57-15-28.1 of the North Dakota Century Code, relating to mill levy limitations for counties participating in the old age and survivors' insurance program and other related programs.

Which has been read and has committee recommendation of DO PASS.

## ROLL CALL

The question being on the final passage of the bill, as amended, the roll was called and there were 42 YEAS, 11 NAYS, 0 ABSENT AND NOT VOTING.

YEAS: Adams; Axtman; Dotzenrod; Freborg; Heigaard; Heinrich; Hilken; Holmberg; Ingstad; Keller; Kelsh; Krauter; Langley; Lashkowitz; Lips; Lodoen; Maixner; Mathern; Maxson; Meyer, J.; Mushik; Nalewaja; Nething; Olson; Peterson; Redlin; Reiten; Richard; Satrom; Schoenwald; Shea; Stenehjem; Stromme; Tallackson; Thane; Todd; Tweten; Vosper; Waldera; Wogsland; Wright; Yockim

NAYS: Bakewell; David; Kelly; Meyer, D.; Meyer, W.; Moore; Mutch; Naaden; Nelson; Streibel; Tennefos

ABSENT AND NOT VOTING: None

HB 1426 passed and the title was agreed to.

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## CONSIDERATION OF AMENDMENTS

SEN. HEINRICH MOVED that the amendments to HB 1578 as recommended by the Committee on Education as printed on pages 1766-1767 of the Senate Journal be adopted, and when so adopted, recommends the same DO PASS and be rereferred to the Committee on Appropriations, which motion prevailed on a verification vote.

HB 1578 was rereferred to the Committee on Appropriations.

SEN. LASHKOWITZ MOVED that the amendments to HCR 3076 as recommended by the Committee on Judiciary as printed on page 1767 of the Senate Journal be adopted, and when so adopted, recommends the same DO PASS, which motion prevailed.

## SECOND READING OF HOUSE CONCURRENT RESOLUTION

HCR 3076: A concurrent resolution directing the Legislative Council to study the feasibility and desirability of adopting administrative alternatives to the application of the exclusionary rule as it relates to search and seizure provisions of the North Dakota and United States Constitutions.

Which has been read and has committee recommendation of DO PASS.

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

HCR 3076 was declared adopted and the title was agreed to on a verification vote.

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#### MOTIONS

SEN. HEIGAARD MOVED that the vote by which SCR 4047, HB 1080, HB 1240, HB 1266, HB 1426, and HCR 3076 passed be reconsidered and the motion to reconsider be laid on the table, which motion prevailed.

SEN. HEIGAARD MOVED that the rules be suspended and that SCR 4047, HB 1080, HB 1240, HB 1266, HB 1426, and HCR 3076 be messaged to the House immediately, which motion prevailed.

#### SECOND READING OF SENATE CONCURRENT RESOLUTIONS

SCR 4005: A concurrent resolution for the amendment of section 8 of article III of the Constitution of the State of North Dakota, relating to the requirement that a measure approved by the electors may not be repealed or amended by the legislative assembly for seven years except by a two-thirds vote.

Which has been read and has committee recommendation of DO PASS.

#### ROLL CALL

The question being on the final adoption of the resolution, the roll was called and there were 52 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING.

YEAS: Adams; Axtman; Bakewell; David; Dotzenrod; Freborg; Heigaard; Heinrich; Hilken; Holmberg; Ingstad; Keller; Kelly; Kelsh; Krauter; Langley; Lashkowitz; Lips; Lodoen; Maixner; Mathern; Maxson; Meyer, D.; Meyer, J.; Meyer, W.; Moore; Mushik; Mutch; Naaden; Nalewaja; Nelson; Nething; Olson; Peterson; Redlin; Reiten; Richard; Satrom; Schoenwald; Shea; Stenehjem; Streibel; Stromme; Tallackson; Tennefos; Thane; Todd; Tweten; Waldera; Wogsland; Wright; Yockim

NAYS: None

ABSENT AND NOT VOTING: Vosper

SCR 4005 was declared adopted and the title was agreed to on a roll call vote.

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SCR 4012: A concurrent resolution for the amendment of subsections 1 and 6 of section 6 of article VIII of the Constitution of the State of North Dakota, relating to the consolidation of the administration of the state educational institutions at Dickinson, Mayville, Minot, and Valley City.

Which has been read and has committee recommendation of DO NOT PASS.

#### ROLL CALL

The question being on the final adoption of the resolution, the roll was called and there were 17 YEAS, 36 NAYS, 0 ABSENT AND NOT VOTING.

YEAS: Axtman; Dotzenrod; Heigaard; Hilken; Keller; Kelsh; Krauter; Langley; Maixner; Mathern; Maxson; Meyer, D.; Meyer, J.; Meyer, W.; Mushik; Shea; Wogsland

NAYS: Adams; Bakewell; David; Freborg; Heinrich; Holmberg; Ingstad; Kelly; Lashkowitz; Lips; Lodoen; Moore; Mutch; Naaden; Nalewaja; Nelson; Nething; Olson; Peterson; Redlin; Reiten; Richard; Satrom; Schoenwald; Stenehjem; Streibel; Stromme; Tallackson; Tennefos; Thane; Todd; Tweten; Vosper; Waldera; Wright; Yockim

ABSENT AND NOT VOTING: None

SCR 4012 was declared lost on a roll call vote.

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SCR 4019: A concurrent resolution for the amendment of subsection 1 of section 6 of article VIII and section 12 of article IX of the Constitution of the State of North Dakota, relating to institutions of higher education and removing references to the institution located in Mayville; and to provide an effective date.

Which has been read and has committee recommendation of DO NOT PASS.

#### ROLL CALL

The question being on the final adoption of the resolution, the roll was called and there were 0 YEAS, 52 NAYS, 1 ABSENT AND NOT VOTING.

YEAS: None

NAYS: Adams; Axtman; Bakewell; David; Dotzenrod; Freborg; Heigaard; Heinrich; Hilken; Holmberg; Ingstad; Keller; Kelly; Kelsh; Krauter; Langley; Lashkowitz; Lips; Lodoen; Maixner; Mathern; Maxson; Meyer, D.; Meyer, J.; Meyer, W.; Moore; Mushik; Mutch; Naaden; Nalewaja;

Nelson; Nething; Olson; Peterson; Redlin; Reiten;  
Richard; Satrom; Schoenwald; Shea; Stenehjem; Streibel;  
Stromme; Tallackson; Tennefos; Thane; Todd; Tweten;  
Waldera; Wogsland; Wright; Yockim

ABSENT AND NOT VOTING: Vosper

SCR 4019 was declared lost on a roll call vote.

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SCR 4027: A concurrent resolution for the amendment of subsection 1 of section 6 of article VIII and section 12 of article IX of the Constitution of the State of North Dakota, relating to institutions of higher education and removing references to the institution located in Mayville; to provide for the closing of the institution of higher education in Mayville; and to provide an effective date.

Which has been read and has committee recommendation of DO NOT PASS.

MOTION

SEN. HEIGAARD MOVED the previous question, which motion prevailed.

REQUEST

SEN. MAXSON REQUESTED a verification vote, which request was granted.

The motion to raise the previous question lost on a verification vote.

ROLL CALL

The question being on the final adoption of the resolution, the roll was called and there were 9 YEAS, 44 NAYS, 0 ABSENT AND NOT VOTING.

YEAS: Axtman; David; Dotzenrod; Keller; Krauter; Maxson;  
Meyer, J.; Meyer, W.; Schoenwald

NAYS: Adams; Bakewell; Freborg; Heigaard; Heinrich;  
Hilken; Holmberg; Ingstad; Kelly; Kelsh; Langley;  
Lashkowitz; Lips; Lodoen; Maixner; Mathern; Meyer, D.;  
Moore; Mushik; Mutch; Naaden; Nalewaja; Nelson;  
Nething; Olson; Peterson; Redlin; Reiten; Richard;  
Satrom; Shea; Stenehjem; Streibel; Stromme; Tallackson;  
Tennefos; Thane; Todd; Tweten; Vosper; Waldera;  
Wogsland; Wright; Yockim

ABSENT AND NOT VOTING: None

SCR 4027 was declared lost on a roll call vote.

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## POINT OF PERSONAL PRIVILEGE

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

Mr. President and fellow Senators: Mayville College is a name synonymous with quality and service, quality attested to by the fact that its product is in high demand by school districts throughout North Dakota. The head of the mathematics program at the University of North Dakota is a graduate of Mayville State College.

Service attested to by the fact that Mayville College graduates, by and large, stay in North Dakota to teach in its small school systems and its larger school systems such as Grand Forks, whose schools recognize and benefit from the high quality teaching abilities of many graduates of Mayville State College.

Service attested to by the fact that Mayville State College students get more personal service with a lower student-teacher ratio; where the student is missed if he or she is not in class; where the student can get to know and work with the full professor who heads the department.

I ask you, why would anyone want to consider closing Mayville State College? Certainly not just because it is in the eastern part of North Dakota with three other institutions, when you know that almost one-third of the population of North Dakota (32 percent) lives in the counties adjoining the Red River.

Certainly not when one knows that many of its students who have tried the university campuses got lost in the lecture classes of several hundred students taught by a graduate assistant and who decided to return to Mayville or one of our other small colleges.

One certainly would support a college that is in its second full ten-year accreditation by North Central Association after a provisional three-year accreditation in 1973, a college that is also a leader in innovative techniques in education, such as the internship program in business. Mayville College was the originator of the teacher learning center concept which is now a part of several of our higher educational institutions, including the University at Grand Forks! Mayville College is also the site of another innovative first - the only one in the state - that is the applied business computer studies program. Attesting to the success of this experience, I refer you to the July 17, 1985, Newsweek article for a description of the General Motors electronic data systems Saturn project, which employed fourteen Mayville College graduates in 1985-87!

One certainly would support Mayville College when one knows it is continuing its innovative leadership by developing a distant learning program whereby, as a pilot project, the college is teaching German by satellite from Oklahoma State University and is ready, willing, and able to provide this type of electronic media support to the elementary and secondary schools of North Dakota.

Mayville College, which uses less than six-tenths of one percent of our general fund spending, is a viable, dynamic institution that has served North Dakota since statehood and is about to celebrate its one hundredth anniversary; should we continue to build new dormitories and classrooms at overcrowded institutions when we have institutions such as Mayville that have demonstrated they provide quality education and have excess capacity for more students?

Mr. President, ladies and gentlemen of the Senate: Let's not throw out the baby with the bath water. Just because we are in tough economic times today is not a good reason to close Mayville or any other of our higher education institutions. We need these institutions now more than ever, with our older-than-average students, displaced farmers, businessmen, and homemakers thirsting for the new technology that is now available. We can be the leaders in this technology if we dispense with the negative, disruptive notion of closing institutions or removing references to the higher education institutions from the Constitution.

As the Enarson Report, "Partners for Quality," states: "Closing a college would provoke a damaging, political struggle that would touch higher education throughout the state and would cause great harm in the communities."

Our forefathers were very wise when they established the higher educational institutions in the Constitution. They knew there would be times of economic stress, but they also knew that education is the lifeblood of our society. North Dakota has been through several economic stresses in its one hundred years and this one, too, will pass!

We are on the threshold of a new technology in education. We can be the leaders in this technology if we put our efforts in this direction.

Mayville State College stands ready and is now providing positive, dynamic leadership in this direction. Let's all join in to preserve and enhance this higher education system we are blessed with.

I urge you all, including the Senator from District 41, to vote "nay" on SCR 4019 and SCR 4027.

Thank you.

MESSAGES TO THE HOUSE  
SENATE CHAMBER

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

HB 1080, HB 1240, HB 1266, HB 1426, HCR 3076

PERRY GROTBORG, Secretary

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 4047

PERRY GROTBORG, Secretary

MESSAGE FROM THE HOUSE  
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 1207, HB 1241, HB 1481

ROY GILBREATH, Chief Clerk

MOTION

SEN. HEIGAARD MOVED that the Senate stand in recess until 2:00 p.m., which motion prevailed.

THE SENATE RECONVENED pursuant to recess taken, with President Pro Tem Redlin presiding.

SECOND READING OF SENATE CONCURRENT RESOLUTION

SCR 4037: A concurrent resolution for the amendment of section 21 of article X of the Constitution of the State of North Dakota, relating to an appropriation of up to ten percent of coal severance tax trust fund moneys for lignite research and development purposes.

Which has been read and is placed on the calendar without recommendation.

ROLL CALL

The question being on the final adoption of the resolution, the roll was called and there were 22 YEAS, 31 NAYS, 0 ABSENT AND NOT VOTING.

YEAS: David; Dotzenrod; Heigaard; Heinrich; Holmberg; Ingstad; Langley; Lips; Maxson; Meyer, J.; Mushik;

Redlin; Richard; Satrom; Schoenwald; Shea; Stenehjelm;  
Stromme; Tallackson; Tennefos; Tweten; Waldera

NAYS: Adams; Axtman; Bakewell; Freborg; Hilken; Keller;  
Kelly; Kelsh; Krauter; Lashkowitz; Lodoen; Maixner;  
Mathern; Meyer, D.; Meyer, W.; Moore; Mutch; Naaden;  
Nalewaja; Nelson; Nething; Olson; Peterson; Reiten;  
Streibel; Thane; Todd; Vosper; Wogsland; Wright; Yockim

ABSENT AND NOT VOTING: None

SCR 4037 was declared lost on a roll call vote.

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#### MOTION

SEN. HEIGAARD MOVED that HB 1004 and HB 1019, which are on the Fourteenth order, be laid over four legislative days, which motion prevailed.

#### SECOND READING OF HOUSE BILLS

HB 1208: A BILL for an Act to create and enact a new subsection to section 43-12.1-02 of the North Dakota Century Code, relating to definition of the word "licensee"; to amend and reenact sections 43-12.1-11, 43-12.1-12, and 43-12.1-14 of the North Dakota Century Code, relating to when a nursing license is issued, the qualifications for obtaining a nursing license by endorsement and the imposition of fines, costs, and disbursements for respondents in disciplinary proceedings before the board of nursing; and to provide a penalty.

Which has been read and has committee recommendation of DO PASS.

#### ROLL CALL

The question being on the final passage of the bill, as amended, the roll was called and there were 53 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING.

YEAS: Adams; Axtman; Bakewell; David; Dotzenrod; Freborg;  
Heigaard; Heinrich; Hilken; Holmberg; Ingstad; Keller;  
Kelly; Kelsh; Krauter; Langley; Lashkowitz; Lips;  
Lodoen; Maixner; Mathern; Maxson; Meyer, D.; Meyer, J.;  
Meyer, W.; Moore; Mushik; Mutch; Naaden; Nalewaja;  
Nelson; Nething; Olson; Peterson; Redlin; Reiten;  
Richard; Satrom; Schoenwald; Shea; Stenehjelm; Streibel;  
Stromme; Tallackson; Tennefos; Thane; Todd; Tweten;  
Vosper; Waldera; Wogsland; Wright; Yockim

NAYS: None

ABSENT AND NOT VOTING: None

HB 1208 passed and the title was agreed to.

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**HB 1272:** A BILL for an Act to create and enact two new sections to chapter 23-12 of the North Dakota Century Code, relating to enforcement of public smoking restrictions; and to amend and reenact sections 23-12-09, 23-12-10, and 23-12-11 of the North Dakota Century Code, relating to designated smoking areas in places of public assembly.

Which has been read and has committee recommendation of DO PASS.

#### ROLL CALL

The question being on the final passage of the bill, as amended, the roll was called and there were 45 YEAS, 8 NAYS, 0 ABSENT AND NOT VOTING.

**YEAS:** Adams; Axtman; Bakewell; Dotzenrod; Freborg; Heigaard; Heinrich; Hilken; Holmberg; Ingstad; Keller; Kelly; Kelsh; Krauter; Langley; Lashkowitz; Lips; Maixner; Mathern; Meyer, J.; Meyer, W.; Moore; Mushik; Nalewaja; Olson; Peterson; Redlin; Reiten; Richard; Satrom; Schoenwald; Shea; Stenehjem; Streibel; Stromme; Tallackson; Tennefos; Thane; Todd; Tweten; Vosper; Waldera; Wogsland; Wright; Yockim

**NAYS:** David; Lodoen; Maxson; Meyer, D.; Mutch; Naaden; Nelson; Nething

**ABSENT AND NOT VOTING:** None

HB 1272 passed and the title was agreed to.

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**HB 1289:** A BILL for an Act to create and enact a new section to chapter 11-11 of the North Dakota Century Code, relating to objects loaned or donated to local museums which have closed.

Which has been read and has committee recommendation of DO PASS.

#### ROLL CALL

The question being on the final passage of the bill, as amended, the roll was called and there were 52 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING.

**YEAS:** Adams; Axtman; Bakewell; David; Freborg; Heigaard; Heinrich; Hilken; Holmberg; Ingstad; Keller; Kelly; Kelsh; Krauter; Langley; Lashkowitz; Lips; Lodoen; Maixner; Mathern; Maxson; Meyer, D.; Meyer, J.; Meyer, W.; Moore; Mushik; Mutch; Naaden; Nalewaja; Nelson; Nething; Olson; Peterson; Redlin; Reiten; Richard; Satrom; Schoenwald; Shea; Stenehjem; Streibel;

Stromme; Tallackson; Tennefos; Thane; Todd; Tweten;  
Vosper; Waldera; Wogsland; Wright; Yockim

NAYS: Dotzenrod

ABSENT AND NOT VOTING: None

HB 1289 passed and the title was agreed to.

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#### MOTIONS

SEN. HEIGAARD MOVED that HB 1295, which is on the Fourteenth order, be laid over three legislative days, which motion prevailed.

SEN. OLSON MOVED that the Senate reconsider its action whereby HB 1331 lost, which motion prevailed.

SEN. OLSON MOVED that HB 1331, which is on the Fourteenth order, be rereferred to the Committee on Political Subdivisions, which motion prevailed.

#### SECOND READING OF HOUSE BILLS

HB 1319: A BILL for an Act to amend and reenact section 57-39.2-03.3 of the North Dakota Century Code, relating to sales tax on sales through vending machines.

Which has been read and is placed on the calendar without recommendation.

#### ROLL CALL

The question being on the final passage of the bill, as amended, the roll was called and there were 13 YEAS, 40 NAYS, 0 ABSENT AND NOT VOTING.

YEAS: David; Holmberg; Lips; Lodoen; Mutch; Nelson;  
Olson; Peterson; Satrom; Shea; Tallackson; Waldera;  
Wright

NAYS: Adams; Axtman; Bakewell; Dotzenrod; Freborg;  
Heigaard; Heinrich; Hilken; Ingstad; Keller; Kelly;  
Kelsh; Krauter; Langley; Lashkowitz; Maixner; Mathern;  
Maxson; Meyer, D.; Meyer, J.; Meyer, W.; Moore; Mushik;  
Naaden; Nalewaja; Nething; Redlin; Reiten; Richard;  
Schoenwald; Stenehjem; Streibel; Stromme; Tennefos;  
Thane; Todd; Tweten; Vosper; Wogsland; Yockim

ABSENT AND NOT VOTING: None

HB 1319 lost.

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HB 1323: A BILL for an Act to create and enact a new subsection to section 39-06-03 of the North Dakota Century Code, relating to persons who may not be issued licenses to operate motor vehicles; and to amend and reenact section 39-07-11 of the North Dakota Century Code or in the alternative to amend and reenact section 39-07-11 as amended by section 5 of Senate Bill No. 2468, as approved by the fiftieth legislative assembly, relating to records of conviction to be forwarded to the licensing authority.

Which has been read and has committee recommendation of DO NOT PASS.

#### ROLL CALL

The question being on the final passage of the bill, as amended, the roll was called and there were 14 YEAS, 39 NAYS, 0 ABSENT AND NOT VOTING.

YEAS: Bakewell; David; Dotzenrod; Kelly; Moore; Naaden; Peterson; Shea; Stromme; Tennefos; Todd; Tweten; Vosper; Wright

NAYS: Adams; Axtman; Freborg; Heigaard; Heinrich; Hilken; Holmberg; Ingstad; Keller; Kelsh; Krauter; Langley; Lashkowitz; Lips; Lodoen; Maixner; Mathern; Maxson; Meyer, D.; Meyer, J.; Meyer, W.; Mushik; Mutch; Nalewaja; Nelson; Nething; Olson; Redlin; Reiten; Richard; Satrom; Schoenwald; Stenehjem; Streibel; Tallackson; Thane; Waldera; Wogsland; Yockim

ABSENT AND NOT VOTING: None

HB 1323 lost.

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#### MOTIONS

SEN. MAIXNER MOVED that HB 1359 be further amended as follows:

In lieu of the amendments to House Bill No. 1359 adopted by the Senate as found on page 1393 of the Senate Journal, House Bill No. 1359 is amended as follows:

On page 1, line 11, delete the word "seventy-eighth" and insert in lieu thereof the word "fifty-sixth"

On page 1, line 14, remove the overstrike over the word "~~two~~" and delete the word "three"

On page 1, line 20, delete the word "fifteen" and insert in lieu thereof the word "thirteen"

On page 1, line 26, delete the words "is, for periods beginning"

On page 1, line 27, delete the words "after June 30, 1987, the lesser of" and overstrike the colon

On page 2, line 1, overstrike the numeral "(1)" and delete the word "Sixty" and insert in lieu thereof the words "is, for periods beginning after June 30, 1987, sixty-two"

On page 2, line 6, delete the word "; or"

On page 2, line 7, overstrike the numeral "(2)"

On page 2, line 12, delete the words "One hundred seventy-five"

On page 2, line 13, delete the word "dollars" and overstrike the period

On page 2, line 19, after the numerals "1985" insert the words ", except that if on October first of any calendar year beginning with the calendar year 1989, the trust fund reserve is equal to or greater than the required amount, as of July first of the next year the maximum weekly benefit amount is sixty-five percent of the "average weekly wage", rounded to the next lower multiple of one dollar if not a multiple of one dollar"" and remove the overstrike over the period

And renumber the lines, sections, and pages accordingly

SEN. MAIXNER MOVED that the proposed amendments be adopted.

#### REQUEST

SEN. OLSON REQUESTED a recorded roll call vote on the motion to adopt the proposed amendments to HB 1359, which request was granted.

#### ROLL CALL

The question being on the motion to adopt the proposed amendments to HB 1359, the roll was called and there were 27 YEAS, 26 NAYS, 0 ABSENT AND NOT VOTING.

YEAS: Axtman; Dotzenrod; Heigaard; Heinrich; Hilken; Keller; Kelsh; Krauter; Langley; Lashkowitz; Maixner; Mathern; Maxson; Meyer, D.; Meyer, J.; Meyer, W.; Mushik; Redlin; Richard; Satrom; Schoenwald; Shea; Stromme; Tallackson; Waldera; Wogsland; Yockim

NAYS: Adams; Bakewell; David; Freborg; Holmberg; Ingstad; Kelly; Lips; Lodoen; Moore; Mutch; Naaden; Nalewaja; Nelson; Nething; Olson; Peterson; Reiten; Stenehjem; Streibel; Tennefos; Thane; Todd; Tweten; Vosper; Wright

ABSENT AND NOT VOTING: None

The proposed amendments to HB 1359 were adopted.

## MOTIONS

SEN. HEIGAARD MOVED that the Senate stand in recess until 4:00 p.m., which motion prevailed.

THE SENATE RECONVENED pursuant to recess taken, with President Pro Tem Redlin presiding.

SEN. MAIXNER MOVED that HB 1359 be further amended.

SEN. TENNEFOS MOVED that HB 1359, which is on the Fourteenth order, be laid over one legislative day, which motion prevailed.

## REQUEST

SEN. WOGSLAND REQUESTED a verification vote, which request was granted.

The motion that HB 1359 be laid over one legislative day lost on a verification vote.

## MOTION

SEN. HEIGAARD MOVED that the Senate stand in recess until 4:45 p.m., which motion prevailed.

THE SENATE RECONVENED pursuant to recess taken, with President Pro Tem Redlin presiding.

## REQUEST

SEN. MAIXNER REQUESTED a call of the Senate, which request was granted.

## MOTION

SEN. MAIXNER MOVED that the call of the Senate be dispensed with, which motion prevailed.

## REQUEST

SEN. MAIXNER REQUESTED to withdraw the proposed amendments to HB 1359, which request was granted.

## MOTIONS

SEN. MAIXNER MOVED that HB 1359 be further amended as follows:

On page 1, line 1, after the word "reenact" insert the word and numerals "sections 52-04-05, 52-04-06, 52-04-09"

On page 1, line 2, after the numerals "52-06-04" insert a comma

On page 1, line 3, after the word "to" insert the words "standard rates of contributions for unemployment compensation, variations in standard rates of contributions, classification of employers to determine contributions," and after the word "amount" insert a comma

On page 3, after line 10, insert the following new sections:

"SECTION 3. AMENDMENT. Section 52-04-05 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

52-04-05. Standard rate of contributions - Reduction Determination of rates.

1. For the calendar year 1979 and each calendar year thereafter, the standard rate of contributions payable by each employer shall be the rate fixed for employers who have a minus balance reserve ratio which is applicable for the given year in the schedule of rates under section 52-04-06 or five and four-tenths percent, whichever is greater. No employer's rate shall be reduced below the standard rate for any calendar year unless and until his account has been chargeable with benefits throughout the thirty-six-consecutive-calendar-month period ending on September thirtieth of the preceding calendar year, except that an employer who has not been subject to the law for a period of time sufficient to meet this requirement may qualify for a reduced rate if his account has been chargeable with benefits throughout a lesser period of time but in no event less than the twelve-consecutive-calendar-month period, the twenty-four-consecutive-calendar-month period for 1985 and each year thereafter, ending on September thirtieth of the preceding calendar year. Employers who have not been subject to the law for a sufficient period of time to meet the requirements of this subsection shall have their rate determined under subsection 2-
  
- 2- For the calendar year 1981 and each year thereafter, an employer who is not eligible for an experience rate computation, as provided in subsection 1 and section 52-04-06, shall pay contribution at a rate equal to the average industry tax rate as determined by the bureau on computation date, provided that the rate shall not be less than one percent. This subsection shall not apply to newly liable employers in industries with an average tax rate exceeding three percent. Newly liable employers in these industries shall pay the standard rate. The computation of the average industry rate shall exclude those employer accounts which are not eligible for the computation of an experience rate solely by reason of insufficient experience. For the calendar year 1985 and each year thereafter, an employer who is not eligible for an experience rate as provided in subsection 1

and section 52-04-06, shall be assigned the average tax rate of all employers as determined by the bureau on the computation date, but in no event shall this rate be less than one percent. This provision shall not apply to employers classified in an industry which the bureau determines had a negative reserve on the computation date. Newly liable employers in these industries shall be assigned the standard rate. An employer with an industry classification code that is without experience in this state for twelve consecutive chargeable months or who has failed to provide correct industrial classification information shall pay at the standard rate. Assignment by the bureau of employer's industrial classification, for the purpose of this subsection, shall be the two digit major group provided in the standard industrial classification manual, in accordance with established classification practices found in the standard industrial classification manual, issued by the executive office of the president, office of management and budget. The standard rate shall be assigned an employer account which on computation date has a minus balance reserve, or has failed to file a contribution report or a corrected or sufficient report as provided in section 52-04-09.

For each calendar year, the bureau shall estimate the amount of income needed to pay benefits and maintain a balance in the unemployment compensation fund, that as of October 1, 1989, and each succeeding October first, is equal to twenty-five percent of the total benefits paid during the previous twelve months.

2. Rates must be determined as follows:

- a. The income required for the calendar year must be divided by the estimated taxable wages for the calendar year. The result rounded to the next higher one-tenth of one percent is the average required rate.
- b. The minimum rate for each calendar year is the average required rate, multiplied by one-fourth, rounded to the nearest one-tenth of one percent.
- c. The maximum rate for each calendar year is the average required rate, multiplied by three, rounded to the nearest one-tenth of

one percent. However, the maximum rate must be at least five and four-tenths percent.

3. a. Except as otherwise provided in this subsection, an employer's rate may not be reduced below the maximum rate for a calendar year unless the employer's account has been chargeable with benefits throughout the thirty-six-consecutive-calendar-month period ending on September thirtieth of the preceding calendar year.
- b. If an employer has not been subject to the law as required under subdivision a, that employer qualifies for a reduced rate if the account has been chargeable with benefits throughout the twenty-four-consecutive-calendar-month period ending on September thirtieth of the preceding calendar year.
- c. An employer that does not qualify under either subdivision a or b is subject to a rate determined as follows:
- (1) For each calendar year new employers must be assigned a rate of three percent unless the employer is classified in an industry that the bureau determines has a negative reserve on the computation date.
  - (2) New employers in industries that have a negative reserve on the computation date and employers that have failed to provide correct industrial classification information must be assigned the maximum rate.
  - (3) Assignment by the bureau of an employer's industrial classification for the purposes of this paragraph must be the two digit major group provided in the standard industrial classification manual, in accordance with established classification practices found in the standard industrial classification manual issued by the executive office of the president, office of management and budget.
- d. Regardless of any other provision in this subsection, an employer must be assigned the maximum rate for any year if, as of the

computation date, the cumulative benefits charged to the employer's account equal or exceed the cumulative contributions paid on or before October thirty-first with respect to wages paid by that employer before October first of that year.

SECTION 4. AMENDMENT. Section 52-04-06 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

52-04-06. Variations in standard rate of contributions - How determined. Variations from the standard rate of contributions shall be determined in accordance with the following requirements:

- 1- The percent of the average annual payroll by which the cumulative contributions paid by an employer on or before October thirty-first of any year, with respect to wages paid by that employer prior to the first day of October of that calendar year, exceeds the cumulative benefits which were charged to that employer's account and paid on or before September thirtieth of that year, is that employer's reserve ratio. The contribution rate for the next calendar year of an employer eligible under section 52-04-05 will be the basic rate of contributions on the line in the schedule of basic rates opposite that employer's reserve ratio as established for that year.

EMPLOYER'S RESERVE RATIO	BASIC RATE
0% or less	5-0%
More than 0% but less than 1%	4-3%
1% but less than 2%	4-1%
2% but less than 3%	3-9%
3% but less than 4%	3-7%
4% but less than 5%	3-5%
5% but less than 6%	3-3%
6% but less than 7%	3-1%
7% but less than 8%	2-9%
8% but less than 9%	2-7%
9% but less than 10%	2-5%
10% but less than 11%	2-3%
11% but less than 12%	2-1%
12% but less than 13%	1-9%
13% but less than 14%	1-7%
14% but less than 15%	1-5%
15% but less than 16%	1-3%
16% but less than 17%	1-1%
17% but less than 18%	0-9%
18% but less than 19%	0-7%
19% and over	0-5%

- 2- For the calendar year 1983 and each year thereafter, the bureau shall adjust the basic rates in the schedule of basic rates by an adjustment ratio so as to provide a return of contributions needed to pay the projected amount of benefits payable for the following year and to provide for an adequate trust fund reserve. An adequate trust fund reserve as of October 17, 1986, must be at least fifteen percent of the average annual amount of benefits paid. An adequate trust fund reserve as of October 17, 1987, and each October first thereafter, must be at least twenty-five percent of the average annual amount of benefits paid. The eventual goal for the amount of the trust fund reserve is fifty percent of the average annual amount of benefits paid. The average annual amount of benefits paid shall be computed by dividing the total amount of benefits paid and projected to be paid during the previous thirty-six months by three. Benefits financed by direct reimbursement must be omitted from this computation. After the bureau has determined the necessary adjustment ratio, each basic rate in the schedule of basic rates will be reduced or increased by that adjustment ratio with the result rounded to the nearest lower one-tenth of one percent in the case of a reduction or to the nearest higher one-tenth of one percent in the case of an increase.
- 3- Any employer may voluntarily pay into the unemployment compensation fund an amount in excess of the contributions required to be paid under the provisions of this section and such amount shall be credited to his separate account. His rate of contribution shall be computed or recomputed with such amount included in the calculation. Such contributions voluntarily paid shall not be refunded or used as a credit in the payment of contributions in whole or in part. In no event shall any such amount be included in the computation or recomputation for any year unless it is paid within four months after the beginning of such year.
- 4- If the total benefits chargeable against an employer's account for all periods prior to October first of such year, including benefits paid on or before October first, with respect to weeks of unemployment compensated prior to October first, exceed the total contributions paid by such employer for the same period,

including contributions paid on or before October thirty-first with respect to wages paid prior to October first of the same year; his contribution rate for the ensuing calendar year shall be the standard rate.

5- In the bureau's determination of the trust fund reserve ratio; neither the amount paid by; nor the cost of benefits charged to; these employers who have elected to pay on a basis other than that which is computed under the provisions of sections 52-04-03 and 52-04-06; shall be taken into account in the computation of contribution rates and taxable wage base.

6- When

1. All employers eligible for an experience rate computation must be ranked in descending order by their reserve ratios. An employer's reserve ratio is the percentage of the average annual payroll by which the cumulative contributions paid by that employer on or before October thirty-first of any year, with respect to wages paid by that employer before October first of that same year, exceeds the cumulative benefits charged to that employer's account before October first of that year.
2. For each calendar year the bureau shall establish a schedule of rates, with the minimum rate determined under section 52-04-05 assigned to the first rate group. Each successive rate group must be assigned a rate equal to the previous group's rate plus two-tenths of one percent. The number of rate groups in the schedule must be the number required to provide for a rate group at each two-tenths of one percent interval between the minimum rate and two and one-fourth times the average required rate determined under section 52-04-05.
3. Employers must be assigned to the groups in the rate schedule in the rank order of their reserve ratios, as determined in subsection 1, with the highest reserve ratio employers assigned to the first rate group. Each successively ranked employer must be assigned to the groups in the rate schedule so that those employers reporting seventy-eight percent of the eligible employer's prior year's taxable wages are equally distributed in those rate groups at or below the average rate required of employers eligible for experience rating and twenty-two percent of those

- wages are equally distributed in those rate groups above the average rate.
4. The average rate of employers eligible for experience rating is determined as follows:
    - a. The estimated amount of taxes to be paid each year by employers not eligible for experience rating must be subtracted from the total required income for the year determined under section 52-04-05.
    - b. The remainder must be divided by the estimated taxable wages of those employers eligible for experience rating, with the result rounded to the nearest one-tenth of one percent.
  5. After each year's rate schedule has been established, an employer may pay into the fund an amount in excess of the contributions required to be paid under this section. That amount must be credited to the employer's separate account. The employer's rate must be recomputed with the amount included in the calculation only if that amount was paid by April thirtieth of that year. Payments may not be refunded or used as credit in the payment of contributions.
  6. In the bureau's determination of the projected income requirements for computing contribution rates and taxable wage base, only the wages paid by, and the cost of benefits attributable to, tax rated employers may be taken into account.
  7. If an employer has a quarterly taxable payroll in excess of fifty thousand dollars and at least three times its established average annual payroll, the tax rate for such that employer shall be is the standard maximum rate of contribution in effect that year, beginning the first day of the calendar quarter in which it occurred and for the remainder of the calendar year.

SECTION 5. AMENDMENT. Section 52-04-09 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

52-04-09. Classification of employers to determine contributions - Regulations governing. An employer's rate for a calendar year shall be determined on the basis of the employer's experience with contribution payments and benefit charges as of October first of the preceding year. If when such

determination is to be made an employer has failed to file a required report or filed an insufficient report, the bureau shall notify the employer thereof by certified mail addressed to the employer's last known address. Unless the employer files the report or a sufficient report within fifteen days after mailing of the notice, the employer's rate for the following calendar year may not be less than the standard maximum rate. If, at any time, an employer has failed to file a required report or filed an insufficient report, the bureau may, at any time, estimate the wage information required by the report on the basis of reasonably available evidence. The bureau shall notify the employer of the estimate by certified mail addressed to the employer's last known address. Unless the employer files the report or a sufficient report within fifteen days after the mailing of the notice, the estimate shall become final for all purposes, except that if the amount of estimated wages is less than the actual wages, the bureau may reconsider the estimate."

And renumber the lines, sections, and pages accordingly

SEN. MAIXNER MOVED that the proposed amendments be adopted.

#### REQUEST

SEN. OLSON REQUESTED a recorded roll call vote on the motion to adopt the proposed amendments to HB 1359, which request was granted.

#### ROLL CALL

The question being on the motion to adopt the proposed amendments to HB 1359, the roll was called and there were 27 YEAS, 26 NAYS, 0 ABSENT AND NOT VOTING.

YEAS: Axtman; Dotzenrod; Heigaard; Heinrich; Hilken; Keller; Kelsh; Krauter; Langley; Lashkowitz; Maixner; Mathern; Maxson; Meyer, D.; Meyer, J.; Meyer, W.; Mushik; Redlin; Richard; Satrom; Schoenwald; Shea; Stromme; Tallackson; Waldera; Wogsland; Yockim

NAYS: Adams; Bakewell; David; Freborg; Holmberg; Ingstad; Kelly; Lips; Lodoen; Moore; Mutch; Naaden; Nalewaja; Nelson; Nething; Olson; Peterson; Reiten; Stenehjem; Streibel; Tennefos; Thane; Todd; Tweten; Vosper; Wright

ABSENT AND NOT VOTING: None

The proposed amendments to HB 1359 were adopted.

#### SECOND READING OF HOUSE BILL

HB 1359: A BILL for an Act to amend and reenact sections 52-04-05, 52-04-06, 52-04-09 subdivision b of subsection 1 of section 52-06-04, and section 52-06-05 of the North Dakota Century Code, relating to standard rates of

contributions for unemployment compensation, variations in standard rates of contributions, classification of employers to determine contributions, unemployment compensation weekly benefit amount, and benefit duration.

Which has been read and has committee recommendation of DO PASS.

#### ROLL CALL

The question being on the final passage of the bill, as amended, the roll was called and there were 35 YEAS, 18 NAYS, 0 ABSENT AND NOT VOTING.

**YEAS:** Axtman; Dotzenrod; Heigaard; Heinrich; Hilken; Holmberg; Ingstad; Keller; Kelly; Krauter; Langley; Lashkowitz; Lips; Lodoen; Maixner; Mathern; Maxson; Meyer, D.; Meyer, J.; Mushik; Nalewaja; Olson; Redlin; Reiten; Richard; Satrom; Schoenwald; Stenehjem; Stromme; Tallackson; Thane; Tweten; Waldera; Wogsland; Yockim

**NAYS:** Adams; Bakewell; David; Freborg; Kelsh; Meyer, W.; Moore; Mutch; Naaden; Nelson; Nething; Peterson; Shea; Streibel; Tennefos; Todd; Vosper; Wright

**ABSENT AND NOT VOTING:** None

HB 1359 passed and the title was agreed to.

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#### MOTIONS

**SEN. HEIGAARD MOVED** that the vote by which SCR 4005, HB 1208, HB 1272, HB 1289, and HB 1359 passed be reconsidered and the motion to reconsider be laid on the table, which motion prevailed.

**SEN. HEIGAARD MOVED** that the rules be suspended and that SCR 4005, HB 1208, HB 1272, HB 1289, and HB 1359, be messaged to the House immediately, which motion prevailed.

#### MESSAGES TO THE HOUSE 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 4005

PERRY GROTBORG, Secretary

## SENATE CHAMBER

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

HB 1208, HB 1272, HB 1289, HB 1359

PERRY GROTEBERG, Secretary

## DELIVERY OF ENROLLED BILLS

THE PRESIDENT PRO TEM ANNOUNCED that the following bills were delivered to the Governor for his approval at the hour of 1:41 p.m., March 26, 1987:

SB 2159, SB 2203, SB 2278

## DELIVERY OF ENROLLED BILLS

THE PRESIDENT PRO TEM ANNOUNCED that the following bills were delivered to the Governor for his approval at the hour of 11:05 a.m., March 26, 1987:

SB 2026, SB 2032, SB 2052, SB 2054, SB 2057, SB 2058,  
 SB 2059, SB 2085, SB 2088, SB 2100, SB 2101, SB 2160,  
 SB 2122, SB 2131, SB 2132, SB 2164, SB 2170, SB 2174,  
 SB 2175, SB 2176, SB 2208, SB 2215, SB 2229, SB 2231,  
 SB 2232, SB 2248, SB 2262, SB 2263, SB 2268, SB 2269,  
 SB 2287, SB 2288, SB 2295, SB 2299, SB 2302, SB 2306,  
 SB 2338, SB 2350, SB 2366, SB 2367, SB 2372, SB 2394,  
 SB 2400, SB 2402, SB 2422, SB 2437, SB 2463, SB 2472,  
 SB 2476, SB 2483, SB 2514, SB 2543, SB 2093, SB 2095,  
 SB 2119, SB 2134, SB 2141, SB 2185, SB 2205, SB 2252,  
 SB 2266, SB 2273, SB 2293, SB 2363, SB 2412, SB 2415,  
 SB 2450, SB 2455, SB 2467, SB 2516

## FIRST READING OF HOUSE BILLS

HB 1680: A BILL for an Act to amend and reenact subdivision a of subsection 2 of section 54-35-02.4 of the North Dakota Century Code, relating to payment of costs of actuarial reports to the legislative council's committee on public employees retirement programs.

Was read the first time and referred to the Committee on State and Federal Government.

HB 1681: A BILL for an Act to amend and reenact subsection 2 of section 54-05.1-03 of the North Dakota Century Code, relating to reporting of expenditures by lobbyists.

Was read the first time and referred to the Committee on State and Federal Government.

## MOTION

SEN. HEIGAARD MOVED that the Senate be on the Fifth order of business, and at the conclusion of the Fifth order of business, be on the Thirteenth order of business, and at the conclusion of the Thirteenth order of business, be on the Sixteenth order of business, and at the conclusion of the Sixteenth order of business, and after the reading of SB 2547 and HB 1474, the

Senate adjourn and convene at 9:00 a.m., Friday, March 27, 1987, which motion prevailed.

PERRY GROTBORG, Secretary