

JOURNAL OF THE HOUSE

Forty-ninth Legislative Assembly

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FORTY-SIXTH DAY

Bismarck, March 14, 1985

The House convened at 12:30 p.m., with Speaker R. Hausauer presiding.

The prayer was offered by Pastor Einar Unseth, Calvary Lutheran Church, Bismarck, North Dakota.

ROLL CALL

The roll was called and all Representatives were present, except Representatives Gullickson, Kingsbury, Opedahl, J. Peterson.

A quorum was declared by the Speaker.

REVISION AND CORRECTION OF THE JOURNAL

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

REP. KENT, Chairman

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

SIXTH ORDER OF BUSINESS

REP. MARTINSON MOVED that the amendments to SB 2048 as recommended by the Committee on State and Federal Government as printed on page 1875 of the House Journal be adopted, and when so adopted, recommends that SB 2048 DO PASS and be rereferred to the Committee on Appropriations, which motion prevailed.

SB 2048 was rereferred to the Committee on Appropriations.

REP. A. HAUSAUER MOVED that the amendments to SB 2095 as recommended by the Committee on Finance and Taxation as printed on page 1876 of the House Journal be adopted, and when so adopted, recommends that SB 2095 DO PASS, which motion prevailed.

SB 2095 was placed on the Fourteenth order of business on the calendar for the succeeding legislative day.

REP. MARTINSON MOVED that the amendments to SB 2193 as recommended by the Committee on State and Federal Government as printed on pages 1876-1877 of the House Journal be adopted, and when so adopted, recommends that SB 2193 DO NOT PASS, which motion prevailed on a verification vote.

SB 2193 was placed on the Fourteenth order of business on the calendar for the succeeding legislative day.

**CONSIDERATION OF MESSAGES FROM SENATE**

**REP. KUCHERA MOVED** that the House do concur in the Senate amendments to HB 1036, which motion prevailed.

HB 1036 was placed on the Eleventh order of business on the calendar for the succeeding legislative day.

**REP. HAUGLAND MOVED** that the House do concur in the Senate amendments to HB 1169, which motion prevailed.

HB 1169 was placed on the Eleventh order of business on the calendar for the succeeding legislative day.

**REP. CONMY MOVED** that the House do concur in the Senate amendments to HB 1207, which motion prevailed.

HB 1207 was placed on the Eleventh order of business on the calendar for the succeeding legislative day.

**REP. HAUGLAND MOVED** that the House do concur in the Senate amendments to HB 1221, which motion prevailed.

HB 1221 was placed on the Eleventh order of business on the calendar for the succeeding legislative day.

**REP. KLOUBEC MOVED** that the House do concur in the Senate amendments to HB 1242, which motion prevailed.

HB 1242 was placed on the Eleventh order of business on the calendar for the succeeding legislative day.

**REP. KNUDSON MOVED** that the House do concur in the Senate amendments to HB 1266, which motion prevailed.

HB 1266 was placed on the Eleventh order of business on the calendar for the succeeding legislative day.

**REP. CONMY MOVED** that the House do concur in the Senate amendments to HB 1296, which motion prevailed.

HB 1296 was placed on the Eleventh order of business on the calendar for the succeeding legislative day.

**REP. HAUGLAND MOVED** that the House do concur in the Senate amendments to HB 1335, which motion prevailed.

HB 1335 was placed on the Eleventh order of business on the calendar for the succeeding legislative day.

**REP. KLOUBEC MOVED** that the House do concur in the Senate amendments to HB 1448, which motion prevailed.

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

REP. A. HAUSAUER MOVED that the House do concur in the Senate amendments to HB 1646, which motion prevailed.

HB 1646 was placed on the Eleventh order of business on the calendar for the succeeding legislative day.

REP. CONMY MOVED that the House do concur in the Senate amendments to HB 1054, which motion prevailed.

HB 1054 was placed on the Eleventh order of business on the calendar for the succeeding legislative day.

REP. KLOUBEC MOVED that the House do concur in the Senate amendments to HB 1406, which motion prevailed.

HB 1406 was placed on the Eleventh order of business on the calendar for the succeeding legislative day.

#### SPECIAL ORDER OF BUSINESS

REP. STRINDEN MOVED that the House be on a Special Order of Business to welcome Ms. Gay Caswell, Member of the Saskatchewan Legislative Assembly and Chairman of the Health and Social Services Caucus Committee.

REP. STRINDEN MOVED that a committee of two be appointed to escort Ms. Caswell to the rostrum.

SPEAKER R. HAUSAUER appointed Reps. Murphy and R. Anderson to such committee, and Ms. Caswell was escorted to the rostrum.

#### REPORTS OF CONFERENCE COMMITTEES

MR. SPEAKER: Your Conference Committee to which was referred HB 1128 has had the same under consideration and recommends that the SENATE RECEDE from its amendments.

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

For the House: Reps. Payne, R. Berg, DeMers

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

MR. SPEAKER: Your Conference Committee to which was referred HB 1384 has had the same under consideration and recommends that the SENATE RECEDE from its amendments.

For the Senate: Sens. Ingstad, David, Matchie

For the House: Reps. Martinson, Melby, L. Hanson

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

## REPORT OF PROCEDURAL COMMITTEE

MR. SPEAKER: Your Committee on Enrollment and Engrossment respectfully report that they have examined the following bill and find the same correctly enrolled:

HCMR 3

REP. HEDSTROM, Chairman

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

## SIGNING OF BILLS AND RESOLUTIONS

THE CHIEF CLERK ANNOUNCED that the Speaker signed the following:

HCMR 3

ROY GILBREATH, Chief Clerk

## MESSAGES TO THE SENATE

## HOUSE CHAMBER

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

HCMR 3

ROY GILBREATH, Chief Clerk

## HOUSE CHAMBER

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

SB 2081, SB 2200, SB 2296

ROY GILBREATH, Chief Clerk

## HOUSE CHAMBER

MADAM PRESIDENT: I have the honor to return herewith the following which the House has failed to pass:

SB 2255

ROY GILBREATH, Chief Clerk

## HOUSE CHAMBER

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

HCR 3015, HCR 3024

ROY GILBREATH, Chief Clerk

HOUSE CHAMBER

MADAM PRESIDENT: I have the honor to return herewith the following which the House has amended:

SB 2164, SB 2251, SB 2292

ROY GILBREATH, Chief Clerk

HOUSE CHAMBER

MADAM PRESIDENT: I have the honor to inform you that the House has concurred in the Senate amendments to HB 1104, HB 1140, and HB 1247 and subsequently passed the same.

ROY GILBREATH, Chief Clerk

HOUSE CHAMBER

MADAM PRESIDENT: I have the honor to transmit herewith the following on which the House has adopted the conference committee report on HB 1128 and HB 1384.

ROY GILBREATH, Chief Clerk

SECOND READING OF HOUSE BILL

HB 1652: A BILL for an Act to amend and reenact subsection 3 of section 25-01.2-01, and sections 25-01.2-02 and 25-01.2-17 of the North Dakota Century Code, relating to rights of the developmentally disabled.

Which has been read.

REQUEST

REP. STOFFERAHN REQUESTED that the question of the final passage of HB 1652 be divided to have the sections voted on separately in the following manner, which request was granted as per Rule 316 which states that the Division of the Question must be supported by twelve members.

DIVISION A

A BILL for an Act to amend and reenact subsection 3 of section 25-01.2-01, and sections 25-01.2-02 and 25-01.2-17 of the North Dakota Century Code, relating to rights of the developmentally disabled.

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

SECTION 1. AMENDMENT. Subsection 3 of section 25-01.2-01 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. "Least restrictive appropriate setting" means that setting which allows professional judgment determines would measurably enhance the developmentally disabled person to develop and realize his fullest potential and enhances the person's ability to cope with his environment

without unnecessarily curtailing fundamental personal liberties enjoyment of basic liberty interests.

SECTION 2. AMENDMENT. Section 25-01.2-02 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-01.2-02. Appropriate treatment, services, and habilitation - Treatment in least restrictive appropriate setting. All persons with developmental disabilities have a right to appropriate treatment, services, and habilitation for those disabilities insofar as the treatment, services, and habilitation enhances or furthers their exercise of basic liberty. Treatment, services, and habilitation for developmentally disabled persons shall be provided in the least restrictive appropriate setting.

#### DIVISION B

SECTION 3. AMENDMENT. Section 25-01.2-17 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-01.2-17. Enforcement of rights. Every developmentally disabled person shall be entitled to enforce any of the rights guaranteed by this chapter by civil action or any other remedy available by common law or statute. in any proceeding to enforce these rights the court may, in its discretion, award reasonable attorneys' fees and costs to a successful plaintiff. A developmentally disabled person who is successful in an administrative proceeding may also be awarded reasonable attorneys' fees and costs. Any award of attorneys' fees and costs shall be in addition to any actual or punitive damages to which the person may be entitled.

#### ROLL CALL

The question being on the motion to adopt Division A of HB 1652, the roll was called and there were 67 YEAS, 35 NAYS, 4 ABSENT AND NOT VOTING.

YEAS: Anderson, C.; Anderson, R.; Belter; Berg, R.; Cleveland; Conmy; Dalrymple; Dorso; Dotzenrod; Eckroth; Enget; Gates; Gerntholz; Goetz; Gunsch; Hanson, O.; Haugland; Hausauer, A.; Hedstrom; Hughes; Kent; Kingsbury; Kloubec; Klundt; Knudson; Koland; Kuchera; Lang; Larson; Lindgren; Lipsiea; Martin; Martinson; Melby; Meyer; Moore; Murphy; Myrdal; Nalewaja; Nicholas; Olson, A.; Olson, V.; Payne; Pederson, R.; Peterson, J.; Rice; Richard; Riehl; Riley; Schindler; Schmidt; Smette; Solberg, O.; Solberg, R.; Starke; Strinden; Thompson; Timm; Tollefson; Unhjem; Vander Vorst; Wald; Wentz; Whalen; Winkelman; Wold; Speaker Hausauer, R.

**NAYS:** Brokaw; DeMers; Frey; Graba; Halmrast; Hamerlik; Hanson, L.; Hill; Hoffner; Keller; Kelly; Kretschmar; Laughlin; Lautenschlager; Linderman; Lloyd; Nowatzki; Oban; O'Connell; Olsen, D.; Opedahl; O'Shea; Retzer; Rydell; Sauter; Schneider; Shaw; Shide; Shockman; Stofferahn; Ulmer; Watne; Williams, A.; Williams, C.; Williams, W.

**ABSENT AND NOT VOTING:** Berg, G.; Gullickson; Mertens; Skjerven

The motion to adopt Division A of HB 1652 prevailed.

#### ROLL CALL

The question being on motion to adopt Division B of HB 1652, the roll was called and there were 49 YEAS, 54 NAYS, 3 ABSENT AND NOT VOTING.

**YEAS:** Anderson, C.; Berg, R.; Cleveland; Dorso; Dotzenrod; Eckroth; Gates; Gerntholz; Goetz; Gunsch; Hanson, O.; Hausauer, A.; Hedstrom; Hughes; Kent; Kingsbury; Kloubec; Knudson; Koland; Kuchera; Lang; Martinson; Melby; Moore; Murphy; Myrdal; Nicholas; Olson, A.; Olson, V.; Payne; Peterson, J.; Retzer; Rice; Riley; Rydell; Schindler; Schmidt; Shide; Skjerven; Smette; Solberg, O.; Strinden; Thompson; Timm; Vander Vorst; Wald; Whalen; Wold; Speaker Hausauer, R.

**NAYS:** Anderson, R.; Belter; Brokaw; Conmy; Dalrymple; DeMers; Enget; Frey; Graba; Halmrast; Hamerlik; Hanson, L.; Haugland; Hill; Hoffner; Keller; Kelly; Klundt; Kretschmar; Larson; Laughlin; Lautenschlager; Linderman; Lindgren; Lipsiea; Lloyd; Martin; Meyer; Nalewaja; Nowatzki; Oban; O'Connell; Olsen, D.; Opedahl; O'Shea; Pederson, R.; Richard; Riehl; Sauter; Schneider; Shaw; Shockman; Solberg, R.; Starke; Stofferahn; Tollefson; Ulmer; Unhjem; Watne; Wentz; Williams, A.; Williams, C.; Williams, W.; Winkelman

**ABSENT AND NOT VOTING:** Berg, G.; Gullickson; Mertens

The motion to adopt Division B of HB 1652 failed.

#### ROLL CALL

The question then was on the final passage of HB 1652, including Division A, and excluding Division B, with title amended appropriately and lines, sections, and pages renumbered accordingly, the roll was called and there were 62 YEAS, 41 NAYS, 3 ABSENT AND NOT VOTING.

**YEAS:** Anderson, C.; Anderson, R.; Belter; Berg, R.; Cleveland; Conmy; Dalrymple; Dorso; Dotzenrod; Eckroth; Gates; Gerntholz; Goetz; Gunsch; Haugland;

Hausauer, A.; Hedstrom; Hughes; Kent; Kingsbury; Kloubec; Klundt; Knudson; Koland; Kuchera; Lang; Larson; Lindgren; Lipsiea; Martin; Martinson; Melby; Meyer; Moore; Murphy; Myrdal; Nalewaja; Nicholas; Olson, A.; Olson, V.; Payne; Peterson, J.; Rice; Riehl; Riley; Schindler; Schmidt; Skjerven; Smette; Solberg, O.; Starke; Strinden; Thompson; Timm; Tollefson; Unhjem; Vander Vorst; Wald; Whalen; Winkelman; Wold; Speaker Hausauer, R.

**NAYS:** Brokaw; DeMers; Enget; Frey; Graba; Halmrast; Hamerlik; Hanson, L.; Hanson, O.; Hill; Hoffner; Keller; Kelly; Kretschmar; Laughlin; Lautenschlager; Linderman; Lloyd; Nowatzki; Oban; O'Connell; Olsen, D.; Opedahl; O'Shea; Pederson, R.; Retzer; Richard; Rydell; Sauter; Schneider; Shaw; Shide; Shockman; Solberg, R.; Stofferahn; Ulmer; Watne; Wentz; Williams, A.; Williams, C.; Williams, W.

**ABSENT AND NOT VOTING:** Berg, G.; Gullickson; Mertens

HB 1652, including Division A, and excluding Division B, was passed, and the title was agreed to.

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**MOTION**

REP. STRINDEN MOVED that the rules be suspended and that HB 1652 be messaged to the Senate immediately, which motion prevailed.

**MESSAGES FROM THE SENATE  
SENATE CHAMBER**

MR. SPEAKER: I have the honor to inform you that the Senate has concurred in the House amendments to SB 2007, SB 2059, SB 2143, SB 2161, SB 2209, SB 2232, SB 2286, SB 2357, and SB 2427 and subsequently passed the same.

LEO LEIDHOLM, Secretary

**SENATE CHAMBER**

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

HB 1098, HB 1271, HB 1372, HB 1416, HB 1425, HCR 3067, HCR 3092

LEO LEIDHOLM, 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 4005, SCR 4018, SCR 4068

LEO LEIDHOLM, Secretary

## SENATE CHAMBER

MR. SPEAKER: I have the honor to return herewith HB 1233, HB 1313, HB 1432, HB 1606, and HB 1635 which the Senate has amended:

## SENATE AMENDMENTS TO HB 1233

On page 1, line 14, delete the word "twenty-five" and insert in lieu thereof the word "fifteen"

And renumber the lines accordingly

## SENATE AMENDMENTS TO ENGROSSED HB 1313

On page 4 of the engrossed bill, line 2, after the period insert the following sentence: "Any respiratory care practitioner who has been registered by the national board for respiratory care prior to July 1, 1985, must, upon application, be granted a license as a registered respiratory care practitioner."

On page 4 of the engrossed bill, line 12, after the period insert the following sentence: "Any respiratory care practitioner who has been certified by the national board for respiratory care prior to July 1, 1985, must, upon application, be granted a license as a certified respiratory care practitioner."

On page 6 of the engrossed bill, line 23, delete the word "direct", and after the word "supervision" insert the words "or direction"

On page 6 of the engrossed bill, line 24, after the word "a" insert the words "physician or a", and after the word "registered" insert the words "or certified"

And renumber the lines and pages accordingly

## SENATE AMENDMENTS TO HB 1432

On page 1, line 2, after the comma insert the words "or in the alternative to amend and reenact the new section to chapter 4-35 of the North Dakota Century Code as created by section 1 of Senate Bill No. 2137, as approved by the forty-ninth legislative assembly,"

On page 2, line 4, delete the word "Section" and insert in lieu thereof the following words: "If Senate Bill No. 2137, of the forty-ninth legislative assembly, does not become effective, section"

On page 2, after line 23, insert the following new section:

"SECTION 3. AMENDMENT. If Senate Bill No. 2137, as approved by the forty-ninth legislative assembly, becomes effective, the new section to chapter 4-35 of the North Dakota Century Code, as created by section 1 of Senate Bill

No. 2137, is hereby amended and reenacted to read as follows:

**Reports of loss through pesticide application required.** No civil action may be commenced arising out of the application of any pesticide by any applicator inflicting damage on property other than property within the target area of the pesticide application, unless the claimant has filed a verified report of loss with the commissioner of agriculture, together with proof of service of the verified report of loss upon the applicator allegedly responsible and, if the claimant is not the person for whom the work was done, then also the person for whom the work was done, within a period of sixty days from the occurrence of the loss or within sixty days from the date the claimant knew the loss had occurred. If the damage is alleged to have been occasioned to growing crops, the report must be filed prior to the time when fifty percent of the crop was harvested. If, however, the applicator does not inform the claimant of the legal requirements for the claimant to file a verified report of loss, the claimant shall have one year from the date of the incident to file a verified report of loss. No verified report of loss is required when the claimant was the operator or applicator of the herbicide, insecticide, fungicide, or agricultural chemical."

And renumber the lines, sections, and pages accordingly

SENATE AMENDMENTS TO HB 1606

On page 1, line 7, after the second word "for" insert the word "resident"

On page 1, line 9, after the word "prescribe" insert the words "for the fishing seasons beginning in 1986 and 1987"

And renumber the lines accordingly

SENATE AMENDMENTS TO ENGROSSED HB 1635

On page 1 of the engrossed bill, line 11, delete the word "chapter" and insert in lieu thereof the word "chapters", and after the numerals "38-08" insert the word and numerals "and 38-08.1"

On page 1 of the engrossed bill, line 12, delete the word "minerals"

And renumber the lines accordingly

LEO LEIDHOLM, Secretary

## SENATE CHAMBER

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

HCMR 3

LEO LEIDHOLM, Secretary

## SENATE CHAMBER

MR. SPEAKER: I have the honor to inform you that the Senate does not concur in the House amendments to SB 2116, SB 2153, SB 2267, and SB 2279 and the President has appointed as a conference committee to act with a like committee from the House on:

SB 2116: Sens. Olson, Stenehjem, Maixner  
 SB 2153: Sens. Freborg, Kelly, Heinrich  
 SB 2267: Sens. Peterson, Bakewell, Wogsland  
 SB 2279: Sens. Freborg, Peterson, Wogsland

LEO LEIDHOLM, Secretary

## REPORT OF PROCEDURAL COMMITTEE

MR. SPEAKER: Your Committee on Enrollment and Engrossment respectfully report that the following bill was delivered to the Secretary of State for his filing at the hour of 2:25 p.m., March 14, 1985:

HCMR 3

REP. HEDSTROM, Chairman

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

## SECOND READING OF HOUSE CONCURRENT RESOLUTIONS

HCR 3017: A concurrent resolution for the amendment of sections 3 and 4 of article IV of the Constitution of the State of North Dakota, as created by sections 3 and 4 of chapter 728 of the 1983 Session Laws of North Dakota, relating to the terms and procedures for election of members of the senate and house of representatives; 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, as amended, the roll was called and there were 38 YEAS, 58 NAYS, 10 ABSENT AND NOT VOTING.

YEAS: Anderson, C.; Anderson, R.; Berg, R.; DeMers;  
 Eckroth; Gates; Hanson, L.; Hanson, O.; Hedstrom;  
 Hoffner; Knudson; Koland; Lang; Larson; Laughlin;  
 Lautenschlager; Lindgren; Lipsiea; Martin; Melby;  
 Moore; Murphy; Oban; O'Connell; Olson, A.; Olson, V.;

Opedahl; Payne; Retzer; Riley; Schindler; Schmidt;  
Skjerven; Solberg, R.; Timm; Wald; Watne; Wold

**NAYS:** Belter; Brokaw; Cleveland; Conmy; Dalrymple; Dorso;  
Dotzenrod; Enget; Frey; Gerntholz; Goetz; Graba;  
Gunsch; Halmrast; Hamerlik; Haugland; Hausauer, A.;  
Hughes; Keller; Kelly; Kent; Kingsbury; Klundt;  
Kretschmar; Linderman; Lloyd; Martinson; Meyer; Myrdal;  
Nalewaja; Nicholas; Nowatzki; Olsen, D.; O'Shea;  
Pederson, R.; Rice; Richard; Riehl; Rydell; Sauter;  
Schneider; Shaw; Shide; Smette; Solberg, O.; Starke;  
Stofferahn; Thompson; Tollefson; Ulmer; Unhjem;  
Vander Vorst; Wentz; Williams, A.; Williams, C.;  
Williams, W.; Winkelman; Speaker Hausauer, R.

**ABSENT AND NOT VOTING:** Berg, G.; Gullickson; Hill;  
Kloubec; Kuchera; Mertens; Peterson, J.; Shockman;  
Strinden; Whalen

HCR 3017 was declared lost.

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**HCR 3018:** A concurrent resolution to create a new section to  
article IV of the Constitution of the State of North  
Dakota, relating to limiting the consecutive number of  
years a person may serve in each house of the legislative  
assembly of the state of North Dakota.

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

#### ROLL CALL

The question being on the final adoption of the resolution, as  
amended, the roll was called and there were 16 YEAS, 83 NAYS,  
7 ABSENT AND NOT VOTING.

**YEAS:** Anderson, C.; Dalrymple; Dorso; Hanson, L.;  
Hanson, O.; Lloyd; Murphy; O'Connell; Retzer; Schmidt;  
Skjerven; Stofferahn; Thompson; Vander Vorst; Whalen;  
Wold

**NAYS:** Anderson, R.; Belter; Berg, R.; Brokaw; Cleveland;  
Conmy; DeMers; Dotzenrod; Eckroth; Enget; Frey; Gates;  
Gerntholz; Goetz; Graba; Gunsch; Halmrast; Hamerlik;  
Hausauer, A.; Hedstrom; Hoffner; Hughes; Keller; Kelly;  
Kent; Kingsbury; Kloubec; Klundt; Knudson; Koland;  
Kretschmar; Kuchera; Lang; Larson; Laughlin;  
Lautenschlager; Linderman; Lindgren; Lipsiea; Martin;  
Martinson; Melby; Moore; Myrdal; Nalewaja; Nicholas;  
Nowatzki; Oban; Olsen, D.; Olson, A.; Olson, V.;  
Opedahl; O'Shea; Payne; Pederson, R.; Peterson, J.;  
Rice; Richard; Riehl; Riley; Rydell; Sauter; Schindler;  
Schneider; Shaw; Shide; Shockman; Smette; Solberg, O.;

Solberg, R.; Starke; Strinden; Timm; Tollefson; Ulmer; Unhjem; Wald; Watne; Wentz; Williams, A.; Williams, C.; Williams, W.; Winkelman

ABSENT AND NOT VOTING: Berg, G.; Gullickson; Haugland; Hill; Mertens; Meyer; Speaker Hausauer, R.

HCR 3018 was declared lost.

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HCR 3038: A concurrent resolution for the amendment of section 25 of article XI of the Constitution of the State of North Dakota, relating to the establishment of a state lottery.

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 27 YEAS, 73 NAYS, 6 ABSENT AND NOT VOTING.

YEAS: Anderson, R.; Berg, R.; Cleveland; Conmy; DeMers; Frey; Gates; Graba; Halmrast; Hanson, L.; Kloubec; Kretschmar; Lloyd; Meyer; Malewaja; Oban; O'Connell; O'Shea; Peterson, J.; Richard; Riley; Schmidt; Schneider; Tollefson; Ulmer; Unhjem; Winkelman

NAYS: Anderson, C.; Belter; Brokaw; Dalrymple; Dorso; Dotzenrod; Eckroth; Enget; Cerntholz; Goetz; Gunsch; Hamerlik; Hanson, O.; Haugland; Hausauer, A.; Hedstrom; Hill; Hoffner; Hughes; Keller; Kent; Kingsbury; Klundt; Knudson; Koland; Kuchera; Lang; Larson; Laughlin; Lautenschlager; Linderman; Lindgren; Lipsiea; Martin; Martinson; Melby; Moore; Murphy; Myrdal; Nicholas; Nowatzki; Olsen, D.; Olson, A.; Olson, V.; Opedahl; Payne; Pederson, R.; Retzer; Rice; Riehl; Rydell; Sauter; Schindler; Shaw; Shide; Shockman; Skjerven; Smette; Solberg, O.; Solberg, R.; Starke; Stofferahh; Strinden; Thompson; Timm; Vander Vorst; Watne; Wentz; Whalen; Williams, A.; Williams, C.; Williams, W.; Wold

ABSENT AND NOT VOTING: Berg, G.; Gullickson; Kelly; Mertens; Wald; Speaker Hausauer, R.

HCR 3038 was declared lost.

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## MOTION

REP. KRETSCHMAR MOVED that the House waive the reading of the title to SB 2201, which motion prevailed.

## SECOND READING OF SENATE BILL

SB 2201: A BILL for an Act to create and enact four new sections to chapter 49-21 of the North Dakota Century Code, relating to the regulation of telecommunications companies by the public service commission; to amend and reenact sections 49-02-01, 49-02-01.1, subsection 7 of section 49-02-02, sections 49-02-05.1, 49-04-19, 49-05-02, 49-09-15, 49-09-16, 49-19-09, 49-19-10, 49-20-12.1, 49-21-01, 49-21-02, 49-21-04, 49-21-05, 49-21-06, 49-21-07, 49-21-08, 49-21-09, 49-21-10, and 49-21.1-05 of the North Dakota Century Code, relating to the jurisdiction of the public service commission over telecommunications companies, the regulation of telecommunications companies, security interests against telecommunications companies, conveyance of real property by a telecommunications company, right-of-way for telecommunications lines, right-of-way for pipeline telecommunications lines, compensations for damages done by laying pipeline telecommunications line, and changes in the topography of land under or adjacent to telecommunications lines; and to repeal sections 49-21-03, 49-21-11, 49-21-12, 49-21-13, and 49-21-16 of the North Dakota Century Code, relating to regulation of telephone and telegraph companies and penalties for failure to comply with a public service commission order regarding telephone and telegraph companies.

Which has been read.

## ROLL CALL

The question being on the final passage of the bill, as amended, the roll was called and there were 82 YEAS, 13 NAYS, 11 ABSENT AND NOT VOTING.

YEAS: Anderson, R.; Belter; Berg, G.; Berg, R.; Cleveland; Conmy; Dorso; Dotzenrod; Eckroth; Gates; Gerntholz; Goetz; Graba; Gunsch; Halmrast; Hamerlik; Hanson, L.; Hanson, O.; Haugland; Hausauer, A.; Hedstrom; Hill; Kent; Kingsbury; Kloubec; Klundt; Knudson; Koland; Kretschmar; Lang; Larson; Laughlin; Lautenschlager; Linderman; Lindgren; Lipsiea; Lloyd; Martinson; Melby; Meyer; Moore; Murphy; Nalewaja; Nowatzki; Oban; O'Connell; Olsen, D.; Olson, A.; Olson, V.; Opedahl; O'Shea; Payne; Pederson, R.; Peterson, J.; Retzer; Rice; Richard; Riehl; Riley; Rydell; Schindler; Schmidt; Shide; Shockman; Skjerven; Smette; Solberg, O.; Solberg, R.; Starke; Strinden; Thompson; Timm; Tollefson; Ulmer; Unhjem; Vander Vorst; Wald; Wentz; Whalen; Williams, A.; Winkelman; Wold

NAYS: Brokaw; DeMers; Enget; Frey; Hoffner; Keller; Kuchera; Myrdal; Sauter; Schneider; Stofferahn; Watne; Williams, W.

ABSENT AND NOT VOTING: Anderson, C.; Dalrymple; Gullickson; Hughes; Kelly; Martin; Mertens; Nicholas; Shaw; Williams, C.; Speaker Hausauer, R.

SB 2201 passed and the title was agreed to.

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REPORT OF PROCEDURAL COMMITTEE

MR. SPEAKER: Your Committee on Enrollment and Engrossment respectfully report that they have examined the following bill and find the same correctly engrossed:

HB 1652

REP. HEDSTROM, Chairman

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

MESSAGE TO THE SENATE  
HOUSE CHAMBER

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

HB 1652

ROY GILBREATH, Chief Clerk

FIRST READING OF SENATE CONCURRENT RESOLUTIONS

SCR 4005: A concurrent resolution for the amendment of section 3 of article IX of the Constitution of the State of North Dakota, relating to membership of the board of university and school lands.

Was read the first time and referred to the Committee on Joint Constitutional Revision.

SCR 4018: 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.

Was read the first time and referred to the Committee on Joint Constitutional Revision.

SCR 4068: A concurrent resolution urging Congress to take appropriate steps to ensure continued and improved AMTRAK passenger service.

Was read the first time and referred to the Committee on Transportation.

#### MOTIONS

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

REP. STRINDEN MOVED that the House be on the Fifth order of business, and at the conclusion of the Fifth order, the House stand adjourned until 12:30 p.m., Friday, March 15, 1985, which motion prevailed.

#### REPORTS OF STANDING COMMITTEES

MR. SPEAKER: Your Committee on Natural Resources to which was referred HB 1655 has had the same under consideration and recommends by a vote of 15 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING that the same DO PASS.

REP. A. OLSON, Chairman

HB 1655 was placed on the Eleventh order of business on the calendar for the succeeding legislative day.

MR. SPEAKER: Your Committee on Judiciary to which was referred Engrossed SB 2068 has had the same under consideration and recommends by a vote of 12 YEAS, 0 NAYS, 2 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 words and numerals "sections 16.1-06-04 and" and insert in lieu thereof the word "section"

On page 1 of the engrossed bill, line 2, delete the word "form" and insert in lieu thereof the word "stamping"

On page 1 of the engrossed bill, delete lines 6 through 28

On page 2 of the engrossed bill, delete lines 1 through 18

And renumber the lines, sections, and pages accordingly

REP. CONMY, Chairman

Engrossed SB 2068 was placed on the Sixth order of business on the calendar for the succeeding legislative day.

MR. SPEAKER: Your Committee on Judiciary to which was referred SB 2069 has had the same under consideration and recommends by a vote of 11 YEAS, 1 NAY, 2 ABSENT AND NOT VOTING that the same DO PASS.

REP. CONMY, Chairman

SB 2069 was placed on the Fourteenth order of business on the calendar for the succeeding legislative day.

MR. SPEAKER: Your Committee on Judiciary to which was referred SB 2070 has had the same under consideration and recommends by a vote of 10 YEAS, 0 NAYS, 4 ABSENT AND NOT VOTING that the same DO PASS.

REP. CONMY, Chairman

SB 2070 was placed on the Fourteenth order of business on the calendar for the succeeding legislative day.

MR. SPEAKER: Your Committee on Natural Resources to which was referred SB 2198 has had the same under consideration and recommends by a vote of 11 YEAS, 1 NAY, 5 ABSENT AND NOT VOTING that the same DO PASS.

REP. A. OLSON, Chairman

SB 2198 was placed on the Fourteenth order of business on the calendar for the succeeding legislative day.

MR. SPEAKER: Your Committee on Judiciary to which was referred SB 2259 has had the same under consideration and recommends by a vote of 9 YEAS, 0 NAYS, 5 ABSENT AND NOT VOTING that the same DO PASS.

REP. CONMY, Chairman

SB 2259 was placed on the Fourteenth order of business on the calendar for the succeeding legislative day.

MR. SPEAKER: Your Committee on Political Subdivisions to which was referred SB 2293 has had the same under consideration and recommends by a vote of 14 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING that the same DO PASS.

REP. LANG, Chairman

SB 2293 was placed on the Fourteenth order of business on the calendar for the succeeding legislative day.

MR. SPEAKER: Your Committee on Social Services and Veterans Affairs to which was referred SB 2371 has had the same under consideration and recommends by a vote of 15 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING that the same DO PASS and be rereferred to the Committee on Appropriations.

REP. HAUGLAND, Chairman

SB 2371 was rereferred to the Committee on Appropriations.

MR. SPEAKER: Your Committee on Education to which was referred Engrossed SB 2375 has had the same under consideration and recommends by a vote of 11 YEAS, 6 NAYS, 1 ABSENT AND NOT VOTING that the same BE AMENDED AS FOLLOWS and when so amended, recommends the same DO NOT PASS and be rereferred to the Committee on Appropriations.

On page 1 of the engrossed bill, line 10, after the comma insert the words "except those institutions participating in

tuition reciprocity agreements entered into by the state board of higher education,"

And renumber the lines and pages accordingly

REP. KNUDSON, Chairman

Engrossed SB 2375 was placed on the Sixth order of business on the calendar for the succeeding legislative day.

MR. SPEAKER: Your Committee on Judiciary to which was referred SB 2381 has had the same under consideration and recommends by a vote of 10 YEAS, 0 NAYS, 4 ABSENT AND NOT VOTING that the same DO PASS and be rereferred to the Committee on Appropriations.

REP. CONMY, Chairman

SB 2381 was rereferred to the Committee on Appropriations.

MR. SPEAKER: Your Committee on Judiciary to which was referred SB 2390 has had the same under consideration and recommends by a vote of 11 YEAS, 0 NAYS, 3 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 19, delete the word "transmute" and insert in lieu thereof the word "transmit"

On page 2 of the engrossed bill, line 7, delete the letter "C" and insert in lieu thereof the letter "B"

On page 2 of the engrossed bill, line 14, delete the letter "C" and insert in lieu thereof the letter "B"

On page 2 of the engrossed bill, line 19, delete the words "A misdemeanor" and insert in lieu thereof the words "C felony"

And renumber the lines and pages accordingly

REP. CONMY, Chairman

SB 2390 was placed on the Sixth order of business on the calendar for the succeeding legislative day.

MR. SPEAKER: Your Committee on Industry, Business and Labor to which was referred Engrossed SB 2391 has had the same under consideration and recommends by a vote of 13 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING that the same DO NOT PASS.

REP. KLOUBEC, Chairman

Engrossed SB 2391 was placed on the Fourteenth order of business on the calendar for the succeeding legislative day.

MR. SPEAKER: Your Committee on Social Services and Veterans Affairs to which was referred SB 2398 has had the same under consideration

and recommends by a vote of 9 YEAS, 5 NAYS, 2 ABSENT AND NOT VOTING that the same DO PASS.

REP. HAUGLAND, Chairman

SB 2398 was placed on the Fourteenth order of business on the calendar for the succeeding legislative day.

MR. SPEAKER: Your Committee on Industry, Business and Labor to which was referred SB 2400 has had the same under consideration and recommends by a vote of 14 YEAS, 1 NAY, 1 ABSENT AND NOT VOTING that the same DO PASS and be rereferred to the Committee on Appropriations.

REP. KLOUBEC, Chairman

SB 2400 was rereferred to the Committee on Appropriations.

MR. SPEAKER: Your Committee on Judiciary to which was referred SB 2403 has had the same under consideration and recommends by a vote of 9 YEAS, 2 NAYS, 3 ABSENT AND NOT VOTING that the same DO PASS.

REP. CONMY, Chairman

SB 2403 was placed on the Fourteenth order of business on the calendar for the succeeding legislative day.

MR. SPEAKER: Your Committee on Finance and Taxation to which was referred SB 2449 has had the same under consideration and recommends by a vote of 11 YEAS, 6 NAYS, 0 ABSENT AND NOT VOTING that the same DO PASS.

REP. A. HAUSAUER, Chairman

SB 2449 was placed on the Fourteenth order of business on the calendar for the succeeding legislative day.

MR. SPEAKER: Your Committee on Judiciary to which was referred SB 2452 has had the same under consideration and recommends by a vote of 10 YEAS, 0 NAYS, 4 ABSENT AND NOT VOTING that the same DO PASS.

REP. CONMY, Chairman

SB 2452 was placed on the Fourteenth order of business on the calendar for the succeeding legislative day.

MR. SPEAKER: Your Committee on Finance and Taxation to which was referred SB 2466 has had the same under consideration and recommends by a vote of 13 YEAS, 1 NAY, 3 ABSENT AND NOT VOTING that the same BE AMENDED AS FOLLOWS and when so amended, recommends the same DO PASS:

On page 1, line 2, delete the words "to provide for the" and insert in lieu thereof the words "relating to"

On page 1, line 3, delete the words "elimination of"

On page 1, line 18, after the comma insert the words "but excluding any federal rent subsidy,"

On page 1, line 24, after the word "of" insert the words "any federal rent subsidy and of"

On page 2, line 21, delete the words ", nor shall this subsection apply to any person"

On page 2, delete line 22

On page 2, line 23, delete the words "housing unit"

And renumber the lines and pages accordingly

REP. A. HAUSAUER, Chairman

SB 2466 was placed on the Sixth order of business on the calendar for the succeeding legislative day.

MR. SPEAKER: Your Committee on Judiciary to which was referred Engrossed SB 2480 has had the same under consideration and recommends by a vote of 12 YEAS, 0 NAYS, 2 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 11, overstrike the words "A misdemeanor" and insert immediately thereafter the words "C felony"

On page 1 of the engrossed bill, line 16, overstrike the words "A misdemeanor" and insert immediately thereafter the words "C felony"

On page 1 of the engrossed bill, line 21, overstrike the words "A misdemeanor" and insert immediately thereafter the words "C felony"

On page 1 of the engrossed bill, line 24, overstrike the second word "A"

On page 1 of the engrossed bill, line 25, overstrike the word "misdemeanor" and insert immediately thereafter the words "C felony"

And renumber the lines and pages accordingly

REP. CONMY, Chairman

Engrossed SB 2480 was placed on the Sixth order of business on the calendar for the succeeding legislative day.

MR. SPEAKER: Your Committee on Social Services and Veterans Affairs to which was referred SB 2486 has had the same under consideration and recommends by a vote of 10 YEAS, 5 NAYS, 1 ABSENT AND NOT VOTING that the same DO PASS.

REP. HAUGLAND, Chairman

SB 2486 was placed on the Fourteenth order of business on the calendar for the succeeding legislative day.

MR. SPEAKER: Your Committee on Judiciary to which was referred SB 2494 has had the same under consideration and recommends by a vote of 10 YEAS, 0 NAYS, 4 ABSENT AND NOT VOTING that the same DO PASS.

REP. CONMY, Chairman

SB 2494 was placed on the Fourteenth order of business on the calendar for the succeeding legislative day.

MR. SPEAKER: Your Committee on Joint Constitutional Revision to which was referred SCR 4005 has had the same under consideration and recommends by a vote of 10 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING that the same DO PASS.

REP. MARTIN, Cochairman

SCR 4005 was placed on the Fourteenth order of business on the calendar for the succeeding legislative day.

MR. SPEAKER: Your Committee on Joint Constitutional Revision to which was referred SCR 4018 has had the same under consideration and recommends by a vote of 4 YEAS, 3 NAYS, 3 ABSENT AND NOT VOTING that the same DO NOT PASS.

REP. MARTIN, Cochairman

SCR 4018 was placed on the Fourteenth order of business on the calendar for the succeeding legislative day.

MR. SPEAKER: Your Committee on Finance and Taxation to which was referred SCR 4050 has had the same under consideration and recommends by a vote of 15 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING that the same DO PASS and BE PLACED ON THE CONSENT CALENDAR.

REP. A. HAUSAUER, Chairman

SCR 4050 was placed on the Tenth order of business on the calendar for the succeeding legislative day.

MR. SPEAKER: Your Committee on Transportation to which was referred SCR 4054 has had the same under consideration and recommends by a vote of 11 YEAS, 0 NAYS, 4 ABSENT AND NOT VOTING that the same DO PASS and BE PLACED ON THE CONSENT CALENDAR.

REP. TIMM, Chairman

SCR 4054 was placed on the Tenth order of business on the calendar for the succeeding legislative day.

MR. SPEAKER: Your Committee on Transportation to which was referred SCR 4055 has had the same under consideration and recommends by a vote of 11 YEAS, 0 NAYS, 4 ABSENT AND NOT VOTING that the same DO PASS and BE PLACED ON THE CONSENT CALENDAR.

REP. TIMM, Chairman

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

MR. SPEAKER: Your Committee on Judiciary to which was referred SCR 4058 has had the same under consideration and recommends by a vote of 11 YEAS, 0 NAYS, 4 ABSENT AND NOT VOTING that the same DO PASS and BE PLACED ON THE CONSENT CALENDAR.

REP. CONMY, Chairman

SCR 4058 was placed on the Tenth order of business on the calendar for the succeeding legislative day.

MR. SPEAKER: Your Committee on Transportation to which was referred SCR 4062 has had the same under consideration and recommends by a vote of 11 YEAS, 0 NAYS, 4 ABSENT AND NOT VOTING that the same DO PASS and BE PLACED ON THE CONSENT CALENDAR.

REP. TIMM, Chairman

SCR 4062 was placed on the Tenth order of business on the calendar for the succeeding legislative day.

MR. SPEAKER: Your Committee on Transportation to which was referred SCR 4063 has had the same under consideration and recommends by a vote of 9 YEAS, 3 NAYS, 3 ABSENT AND NOT VOTING that the same DO NOT PASS.

REP. TIMM, Chairman

SCR 4063 was placed on the Fourteenth order of business on the calendar for the succeeding legislative day.

MR. SPEAKER: Your Committee on Political Subdivisions to which was referred SCR 4064 has had the same under consideration and recommends by a vote of 14 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING that the same DO PASS and BE PLACED ON THE CONSENT CALENDAR.

REP. LANG, Chairman

SCR 4064 was placed on the Tenth order of business on the calendar for the succeeding legislative day.

MR. SPEAKER: Your Committee on Transportation to which was referred SCR 4068 has had the same under consideration and recommends by a vote of 12 YEAS, 1 NAY, 2 ABSENT AND NOT VOTING that the same DO PASS.

REP. TIMM, Chairman

THURSDAY, MARCH 14, 1985

1901

SCR 4068 was placed on the Fourteenth order of business on the calendar for the succeeding legislative day.

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

ROY GILBREATH, Chief Clerk