

## JOURNAL OF THE SENATE

## Fifty-first Legislative Assembly

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Bismarck, February 2, 1989

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

The prayer was offered by Rev. Charlie Neill, First United Methodist Church, Bismarck.

Creator God, we gather together in this place where great decisions are being made. I pray for any person who comes today with special concerns to be addressed. Give wisdom and guidance in all our decisions. Amen.

The roll was called and all Senators were present.

A quorum was declared by the President.

MESSAGE to the HOUSE from the SENATE (Patricia Conrad, Secretary)

MR. SPEAKER: The Senate has passed and your favorable consideration is requested on: SB 2048, SB 2049, SB 2050, SB 2051, SB 2052, SB 2053, SB 2060, SB 2071, SB 2083, SB 2101, SB 2206, SB 2216, SB 2218, SB 2238, SB 2296, SB 2325, SB 2339, SB 2356, SB 2377, SB 2405, SCR 4018.

MESSAGE to the SENATE from the HOUSE (Roy Gilbreath, Chief Clerk)

MR. PRESIDENT: The House has passed and your favorable consideration is requested on: HB 1129, HB 1144, HB 1174, HB 1177, HB 1240, HB 1288, HB 1347, HB 1371, HB 1392, HB 1397, HB 1400, HB 1409, HB 1529, HCR 3024, HCR 3030, HCR 3033.

MESSAGE to the SENATE from the HOUSE (Roy Gilbreath, Chief Clerk)

MR. PRESIDENT: The House has passed unchanged: SB 2064.

CORRECTION and REVISION of the JOURNAL (Sen. Axtman, Chairman)

MR. PRESIDENT: Your Committee on Correction and Revision of the Journal has carefully examined the Journal of the Twenty-first Day and finds it to be correct.

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

## CONSIDERATION OF AMENDMENTS

SEN. HILKEN MOVED that the amendments to SB 2172 as recommended by the Committee on Transportation as printed on page 389 of the Senate Journal be adopted, and when so amended, recommends the same DO PASS, which motion prevailed.

SB 2172 was placed on the Eleventh order of business on the calendar for the succeeding legislative day.

SEN. J. MEYER MOVED that the amendments to SB 2223 as recommended by the Committee on Judiciary as printed on pages 389-390 of the Senate Journal be adopted, and when so amended, recommends the same DO PASS, which motion prevailed.

SB 2223 was placed on the Eleventh order of business on the calendar for the succeeding legislative day.

SEN. LANGLEY MOVED that the amendments to SB 2367 as recommended by the Committee on Industry, Business and Labor as printed on pages 392-393 of the Senate Journal be adopted, and when so amended, recommends the same DO PASS, which motion prevailed.

SB 2367 was placed on the Eleventh order of business on the calendar for the succeeding legislative day.

#### MOTION

SEN. AXTMAN MOVED that SB 2363 be referred back to the Committee on State and Federal Government, which motion prevailed.

#### CONSIDERATION OF AMENDMENTS

SEN. LANGLEY MOVED that the amendments to SB 2411 as recommended by the Committee on Industry, Business and Labor as printed on page 393 of the Senate Journal be adopted, and when so amended, recommends the same DO PASS, which motion prevailed.

SB 2411 was placed on the Eleventh order of business on the calendar for the succeeding legislative day.

SEN. LANGLEY MOVED that the amendments to SB 2412 as recommended by the Committee on Industry, Business and Labor as printed on page 393 of the Senate Journal be adopted, and when so amended, recommends the same DO PASS, which motion prevailed.

SB 2412 was placed on the Eleventh order of business on the calendar for the succeeding legislative day.

#### REPORT OF PROCEDURAL COMMITTEE

MR. PRESIDENT: Your procedural Committee on Committees (Sen. Heigaard, Chairman) respectfully submit the following names for your Select Committee to consider the Governor's nomination for the Securities Commissioner:

Sen. Langley, Chairman  
Sen. Robinson  
Sen. Dotzenrod  
Sen. Nething  
Sen. Stenehjem

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

#### APPOINTMENT REFERRAL

THE PRESIDENT REFERRED the appointment of Glenn A. Pomeroy to the Select Committee for the office of Securities Commissioner.

#### REPORT OF PROCEDURAL COMMITTEE

MR. PRESIDENT: Your procedural Committee on Committees (Sen. Heigaard, Chairman) respectfully submit the following names for your Select Committee to consider the Governor's nomination for the Commissioner of Banking and Financial Institutions:

Sen. Schoenwald, Chairman  
Sen. Keller  
Sen. Axtman

Sen. Todd  
Sen. David

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

APPOINTMENT REFERRAL

THE PRESIDENT REFERRED the appointment of Gary D. Prezler to the Select Committee for the office of Commissioner of Banking and Financial Institutions.

REPORT OF PROCEDURAL COMMITTEE

MR. PRESIDENT: Your procedural Committee on Committees (Sen. Heigaard, Chairman) respectfully submit the following names for your Select Committee to consider the Governor's nomination for the Director of Institutions:

Sen. Satrom, Chairman  
Sen. Mushik  
Sen. Yockim  
Sen. Lodoen  
Sen. Freborg

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

APPOINTMENT REFERRAL

THE PRESIDENT REFERRED the appointment of Richard L. Rayl to the select committee for the office of Director of Institutions.

REPORT OF PROCEDURAL COMMITTEE

MR. PRESIDENT: Your procedural Committee on Committees (Sen. Heigaard, Chairman) respectfully submit the following names for your Select Committee to consider the Governor's nomination for the State Board of Higher Education:

Sen. Redlin, Chairman  
Sen. Maxson  
Sen. Heinrich  
Sen. Shea  
Sen. Nelson  
Sen. Krebsbach  
Sen. Thane

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

APPOINTMENT REFERRAL

THE PRESIDENT REFERRED the appointment of Richard E. Lokken to the Select Committee for the office of Higher Education.

REPORT OF CONFERENCE COMMITTEE

MR. PRESIDENT: Your Conference Committee to which was referred Engrossed SCR 4027 has had the same under consideration and recommends that the SENATE ACCEDE to the House amendments as found on page 287 of the Senate Journal and that Engrossed SCR 4027 be further amended as follows:

Page 4, line 13, after the comma insert "Assistant Appropriations" and replace "58.00" with "62.00"

Renumber accordingly

For the Senate: Sens. Satrom, W. Meyer, Naaden  
 For the House: Reps. Martinson, Melby, Ulmer

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

#### MOTIONS

SEN. SATROM MOVED that the rules be suspended, that SCR 4027 be deemed properly reengrossed and placed on the calendar, as amended, for second reading and final passage, which motion prevailed.

SEN. HEIGAARD MOVED that SB 2458 be moved to the top of the calendar, which motion prevailed.

#### SECOND READING OF SENATE BILL

SB 2458: A BILL for an Act to amend and reenact sections 57-39.2-02.1, 57-39.2-03.2, 57-39.2-08.2, 57-40.2-02.1, 57-40.2-03.2, 57-40.3-02, and 57-40.5-02 of the North Dakota Century Code, relating to sales, use, motor vehicle excise, and aircraft excise tax rates; and to provide an effective date.

#### ROLL CALL

The question being on the final passage of the bill, which has been read and has committee recommendation of DO PASS, the roll was called and there were 37 YEAS, 16 NAYS, 0 ABSENT AND NOT VOTING.

YEAS: Axtman; Dotzenrod; Ewen; Hanson; Heigaard; Heinrich; Holmberg; Ingstad; Kelsh; Kinnoin; Krauter; Krebsbach; Langley; Lashkowitz; Lips; Lodoen; Maixner; Mathern; Maxson; Meyer, J.; Mushik; Nalewaja; Olson; Peterson; Redlin; Richard; Robinson; Satrom; Schoenwald; Shea; Stenehjem; Stromme; Tallackson; Tennefos; Thane; Waldera; Wogsland

NAYS: David; Freborg; Hilken; Keller; Meyer, D.; Meyer, W.; Moore; Mutch; Naaden; Nelson; Nething; O'Connell; Streibel; Todd; Vosper; Yockim

ABSENT AND NOT VOTING: None

SB 2458 passed and the title was agreed to.

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#### SECOND READING OF SENATE CONCURRENT RESOLUTION

SCR 4027: A concurrent resolution providing and designating Senate and House employees and fixing their compensation.

#### ROLL CALL

The question being on the final passage of the amended resolution, which has been read, the roll was called and there were 53 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING.

YEAS: Axtman; David; Dotzenrod; Ewen; Freborg; Hanson; Heigaard; Heinrich; Hilken; Holmberg; Ingstad; Keller; Kelsh; Kinnoin; Krauter; Krebsbach; Langley; Lashkowitz; Lips; Lodoen; Maixner; Mathern; Maxson; Meyer, D.; Meyer, J.; Meyer, W.; Moore; Mushik; Mutch; Naaden; Nalewaja; Nelson; Nething; O'Connell; Olson; Peterson; Redlin; Richard; Robinson; Satrom; Schoenwald; Shea; Stenehjem; Streibel; Stromme; Tallackson; Tennefos; Thane; Todd; Vosper; Waldera; Wogsland; Yockim

NAYS: None

ABSENT AND NOT VOTING: None

SCR 4027 was declared adopted and the title was agreed to.

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SECOND READING OF SENATE BILLS

SB 2041: A BILL for an Act for the exemption of certain economic development records from disclosure.

ROLL CALL

The question being on the final passage of the amended bill, which has been read and has committee recommendation of DO PASS, the roll was called and there were 53 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING.

YEAS: Axtman; David; Dotzenrod; Ewen; Freborg; Hanson; Heigaard; Heinrich; Hilken; Holmberg; Ingstad; Keller; Kelsh; Kinnoin; Krauter; Krebsbach; Langley; Lashkowitz; Lips; Lodoen; Maixner; Mathern; Maxson; Meyer, D.; Meyer, J.; Meyer, W.; Moore; Mushik; Mutch; Naaden; Nalewaja; Nelson; Nething; O'Connell; Olson; Peterson; Redlin; Richard; Robinson; Satrom; Schoenwald; Shea; Stenehjem; Streibel; Stromme; Tallackson; Tennefos; Thane; Todd; Vosper; Waldera; Wogsland; Yockim

NAYS: None

ABSENT AND NOT VOTING: None

SB 2041 passed and the title was agreed to.

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SB 2054: A BILL for an Act to create and enact a new section to chapter 23-07 of the North Dakota Century Code, relating to adoption by school districts of a policy governing the disposition of students, employees, and independent contractors with significant contagious diseases; and to amend and reenact section 23-07-16 of the North Dakota Century Code, relating to school attendance by a child with a significant contagious or infectious disease.

ROLL CALL

The question being on the final passage of the amended bill, which has been read and has committee recommendation of DO PASS, the roll was called and there were 52 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING.

YEAS: Axtman; David; Dotzenrod; Ewen; Freborg; Hanson; Heigaard; Heinrich; Hilken; Holmberg; Ingstad; Keller; Kelsh; Kinnoin; Krauter; Krebsbach; Langley; Lashkowitz; Lips; Lodoen; Maixner; Mathern; Maxson; Meyer, D.; Meyer, J.; Meyer, W.; Moore; Mushik; Mutch; Naaden; Nalewaja; Nelson; Nething; O'Connell; Olson; Peterson; Redlin; Richard; Robinson; Satrom; Schoenwald; Shea; Stenehjem; Streibel; Stromme; Tennefos; Thane; Todd; Vosper; Waldera; Wogsland; Yockim

NAYS: None

ABSENT AND NOT VOTING: Tallackson

SB 2054 passed and the title was agreed to.

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SB 2063: A BILL for an Act to amend and reenact sections 49-09-10.2 and 49-09-11.7 of the North Dakota Century Code, relating to acquisition of railroad rights of way; and to repeal section 49-09-10.1 of the North Dakota Century Code, relating to identification of certain railroad rights of way by the public service commission.

ROLL CALL

The question being on the final passage of the amended bill, which has been read and has committee recommendation of DO PASS, the roll was called and there were 50 YEAS, 0 NAYS, 3 ABSENT AND NOT VOTING.

YEAS: Axtman; David; Dotzenrod; Ewen; Freborg; Hanson; Heigaard; Heinrich; Hilken; Holmberg; Ingstad; Keller; Kelsh; Kinnoin; Krauter; Krebsbach; Langley; Lashkowitz; Lips; Lodoen; Maixner; Mathern; Maxson; Meyer, D.; Meyer, J.; Meyer, W.; Moore; Mutch; Naaden; Nalewaja; Nelson; Nething; O'Connell; Olson; Redlin; Richard; Robinson; Satrom; Schoenwald; Shea; Stenehjem; Streibel; Stromme; Tennefos; Thane; Todd; Vosper; Waldera; Wogsland; Yockim

NAYS: None

ABSENT AND NOT VOTING: Mushik; Peterson; Tallackson

SB 2063 passed and the title was agreed to.

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SB 2187: A BILL for an Act to amend and reenact sections 49-11-24 and 49-11-28 of the North Dakota Century Code, relating to fencing on railroad right of way and maintenance of cattle guards and gates.

ROLL CALL

The question being on the final passage of the amended bill, which has been read and has committee recommendation of DO PASS, the roll was called and there were 50 YEAS, 0 NAYS, 3 ABSENT AND NOT VOTING.

YEAS: Axtman; David; Dotzenrod; Ewen; Freborg; Hanson; Heigaard; Heinrich; Hilken; Holmberg; Ingstad; Keller; Kelsh; Kinnoin; Krauter; Krebsbach; Langley; Lashkowitz; Lips; Lodoen; Maixner; Mathern; Maxson; Meyer, D.; Meyer, J.; Meyer, W.; Moore; Mutch; Naaden; Nalewaja; Nelson; Nething; O'Connell; Olson; Redlin; Richard; Robinson; Satrom; Schoenwald; Shea; Stenehjem; Streibel; Stromme; Tennefos; Thane; Todd; Vosper; Waldera; Wogsland; Yockim

NAYS: None

ABSENT AND NOT VOTING: Mushik; Peterson; Tallackson

SB 2187 passed and the title was agreed to.

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SB 2198: A BILL for an Act to create and enact a new section to chapter 50-24.1 of the North Dakota Century Code, relating to the Medicare Catastrophic Coverage Act of 1988; to amend and reenact section

50-24.1-02.2 of the North Dakota Century Code, relating to the resources of a separated spouse; and to provide an effective date.

ROLL CALL

The question being on the final passage of the amended bill, which has been read and has committee recommendation of DO PASS, the roll was called and there were 52 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING.

YEAS: Axtman; David; Dotzenrod; Ewen; Freborg; Hanson; Heigaard; Heinrich; Hilken; Holmberg; Ingstad; Keller; Kelsh; Kinnoin; Krauter; Krebsbach; Langley; Lashkowitz; Lips; Lodoen; Maixner; Mathern; Maxson; Meyer, D.; Meyer, J.; Meyer, W.; Moore; Mushik; Mutch; Naaden; Nalewaja; Nelson; Nething; O'Connell; Olson; Redlin; Richard; Robinson; Satrom; Schoenwald; Shea; Stenehjem; Streibel; Stromme; Tallackson; Tennefos; Thane; Todd; Vosper; Waldera; Wogsland; Yockim

NAYS: None

ABSENT AND NOT VOTING: Peterson

SB 2198 passed and the title was agreed to.

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SB 2243: A BILL for an Act to create and enact six new sections to chapter 24-02 of the North Dakota Century Code, relating to a department of transportation, its director, its assumption of functions and structure, and administrative rules and references; to amend and reenact section 2-05-03, subsections 7 and 11 of section 24-01-01.1, sections 24-02-13, 24-03-03, 24-16-02, 24-17-02, subsections 8, 12, and 13 of section 39-01-01, subsection 1 of section 39-16-01, subsection 7 of section 39-24-01, subsection 2 of section 49-17.1-01, section 49-18-41.1, subsection 1 of section 54-06-04, subsection 1 of section 54-27-19, and subsection 6 of section 57-40.3-01 of the North Dakota Century Code, relating to reporting by the director of aeronautics to the director of the department of transportation, substituting the department of transportation or its director for the state highway department or department of motor vehicles in definitions under titles 24 and 39, highway contracts, junkyard and billboard regulation, financial responsibility, snowmobile regulation, railroad service contracts, interstate motor carrier registration stamps, reports to the governor, tax revenue distribution and motor vehicle excise tax; to repeal sections 24-02-01, 24-02-02, 24-02-03, 24-02-04, 24-02-05, 24-02-06, and 24-02-38, subsection 14 of section 39-01-01, and sections 39-02-01, 39-02-02, and 39-02-04, relating to the state highway department, highway commissioner and commissioner's duties, highway chief engineer, additional highway appropriations, the motor vehicle registrar, and the registrar's salary, powers, and duties; to provide an appropriation; and to provide an effective date.

ROLL CALL

The question being on the final passage of the amended bill, which has been read and has committee recommendation of DO PASS, the roll was called and there were 53 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING.

YEAS: Axtman; David; Dotzenrod; Ewen; Freborg; Hanson; Heigaard; Heinrich; Hilken; Holmberg; Ingstad; Keller; Kelsh; Kinnoin; Krauter; Krebsbach; Langley; Lashkowitz; Lips; Lodoen; Maixner; Mathern; Maxson; Meyer, D.;

Meyer, J.; Meyer, W.; Moore; Mushik; Mutch; Naaden; Nalewaja; Nelson; Nething; O'Connell; Olson; Peterson; Redlin; Richard; Robinson; Satrom; Schoenwald; Shea; Stenehjem; Streibel; Stromme; Tallackson; Tennefos; Thane; Todd; Vosper; Waldera; Wogsland; Yockim

NAYS: None

ABSENT AND NOT VOTING: None

SB 2243 passed and the title was agreed to.

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SB 2277: A BILL for an Act to amend and reenact subsection 7 of section 15-39.1-24 of the North Dakota Century Code, relating to purchase of service credit under the teachers' fund for retirement.

#### ROLL CALL

The question being on the final passage of the amended bill, which has been read and has committee recommendation of DO PASS, the roll was called and there were 53 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING.

YEAS: Axtman; David; Dotzenrod; Ewen; Freborg; Hanson; Heigaard; Heinrich; Hilken; Holmberg; Ingstad; Keller; Kelsh; Kinnoin; Krauter; Krebsbach; Langley; Lashkowitz; Lips; Lodoen; Maixner; Mathern; Maxson; Meyer, D.; Meyer, J.; Meyer, W.; Moore; Mushik; Mutch; Naaden; Nalewaja; Nelson; Nething; O'Connell; Olson; Peterson; Redlin; Richard; Robinson; Satrom; Schoenwald; Shea; Stenehjem; Streibel; Stromme; Tallackson; Tennefos; Thane; Todd; Vosper; Waldera; Wogsland; Yockim

NAYS: None

ABSENT AND NOT VOTING: None

SB 2277 passed and the title was agreed to.

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#### MOTION

SEN. KELSH MOVED that SB 2278 be moved to the top of the calendar, which motion prevailed.

#### SECOND READING OF SENATE BILLS

SB 2278: A BILL for an Act to amend and reenact section 15-39.1-15 of the North Dakota Century Code, relating to withdrawal from the teachers' fund for retirement and return to teaching by a previously withdrawn teacher.

#### ROLL CALL

The question being on the final passage of the bill, which has been read and has committee recommendation of DO PASS, the roll was called and there were 52 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING.

YEAS: Axtman; David; Dotzenrod; Ewen; Freborg; Hanson; Heigaard; Heinrich; Hilken; Holmberg; Ingstad; Keller; Kelsh; Kinnoin; Krauter; Krebsbach; Langley; Lashkowitz; Lips; Lodoen; Mathern; Maxson; Meyer, D.; Meyer, J.; Meyer, W.; Moore; Mushik; Mutch; Naaden; Nalewaja; Nelson; Nething; O'Connell; Olson; Peterson; Redlin; Richard; Robinson; Satrom;

Schoenwald; Shea; Stenehjelm; Streibel; Stromme; Tallackson; Tennefos; Thane; Todd; Vosper; Waldera; Wogsland; Yockim

NAYS: None

ABSENT AND NOT VOTING: Maixner

SB 2278 passed and the title was agreed to.

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SB 2282: A BILL for an Act to create and enact two new subsections to section 26.1-05-19 of the North Dakota Century Code, relating to hydrocarbon production and royalty loans and collateral loans.

ROLL CALL

The question being on the final passage of the amended bill, which has been read and has committee recommendation of DO PASS, the roll was called and there were 52 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING.

YEAS: Axtman; David; Dotzenrod; Ewen; Freborg; Hanson; Heigaard; Hilken; Holmberg; Ingstad; Keller; Kelsh; Kinnoin; Krauter; Krebsbach; Langley; Lashkowitz; Lips; Lodoen; Maixner; Mathern; Maxson; Meyer, D.; Meyer, J.; Meyer, W.; Moore; Mushik; Mutch; Naaden; Nalewaja; Nelson; Nething; O'Connell; Olson; Peterson; Redlin; Richard; Robinson; Satrom; Schoenwald; Shea; Stenehjelm; Streibel; Stromme; Tallackson; Tennefos; Thane; Todd; Vosper; Waldera; Wogsland; Yockim

NAYS: None

ABSENT AND NOT VOTING: Heinrich

SB 2282 passed and the title was agreed to.

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SB 2294: A BILL for an Act to amend and reenact subsection 1 of section 53-06.1-03 of the North Dakota Century Code, relating to local authorization for city or county festivals or celebrations to conduct raffles under the games of chance laws; and to declare an emergency.

ROLL CALL

The question being on the final passage of the amended bill, which has been read and has committee recommendation of DO PASS, the roll was called and there were 52 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING.

YEAS: Axtman; David; Dotzenrod; Ewen; Freborg; Hanson; Heigaard; Heinrich; Hilken; Holmberg; Ingstad; Keller; Kelsh; Kinnoin; Krauter; Krebsbach; Langley; Lashkowitz; Lips; Lodoen; Maixner; Mathern; Maxson; Meyer, D.; Meyer, J.; Meyer, W.; Moore; Mushik; Mutch; Naaden; Nalewaja; Nelson; Nething; O'Connell; Olson; Peterson; Redlin; Robinson; Satrom; Schoenwald; Shea; Stenehjelm; Streibel; Stromme; Tallackson; Tennefos; Thane; Todd; Vosper; Waldera; Wogsland; Yockim

NAYS: None

ABSENT AND NOT VOTING: Richard

SB 2294 passed, the title was agreed to, and the emergency clause carried.

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SB 2311: A BILL for an Act to amend and reenact subsection 2 of section 15-28-03 of the North Dakota Century Code, relating to combined city and school district elections.

ROLL CALL

The question being on the final passage of the amended bill, which has been read and has committee recommendation of DO PASS, the roll was called and there were 53 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING.

YEAS: Axtman; David; Dotzenrod; Ewen; Freborg; Hanson; Heigaard; Heinrich; Hilken; Holmberg; Ingstad; Keller; Kelsh; Kinnoin; Krauter; Krebsbach; Langley; Lashkowitz; Lips; Lodoen; Maixner; Mathern; Maxson; Meyer, D.; Meyer, J.; Meyer, W.; Moore; Mushik; Mutch; Naaden; Nalewaja; Nelson; Nething; O'Connell; Olson; Peterson; Redlin; Richard; Robinson; Satrom; Schoenwald; Shea; Stenehjem; Streibel; Stromme; Tallackson; Tennefos; Thane; Todd; Vosper; Waldera; Wogsland; Yockim

NAYS: None

ABSENT AND NOT VOTING: None

SB 2311 passed and the title was agreed to.

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SB 2378: A BILL for an Act to amend and reenact subsection 1 of section 39-09-03 of the North Dakota Century Code, relating to alteration of speed limits by local authorities; and to declare an emergency.

ROLL CALL

The question being on the final passage of the amended bill, which has been read and has committee recommendation of DO PASS, the roll was called and there were 52 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING.

YEAS: Axtman; David; Dotzenrod; Ewen; Freborg; Hanson; Heinrich; Hilken; Holmberg; Ingstad; Keller; Kelsh; Kinnoin; Krauter; Krebsbach; Langley; Lashkowitz; Lips; Lodoen; Maixner; Mathern; Maxson; Meyer, D.; Meyer, J.; Meyer, W.; Moore; Mushik; Mutch; Naaden; Nalewaja; Nelson; Nething; O'Connell; Olson; Peterson; Redlin; Richard; Robinson; Satrom; Schoenwald; Shea; Stenehjem; Streibel; Stromme; Tallackson; Tennefos; Thane; Todd; Vosper; Waldera; Wogsland; Yockim

NAYS: None

ABSENT AND NOT VOTING: Heigaard

SB 2378 passed, the title was agreed to, and the emergency clause carried.

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SB 2396: A BILL for an Act to amend and reenact section 11-15-01.1 of the North Dakota Century Code, relating to sheriff qualifications.

## ROLL CALL

The question being on the final passage of the amended bill, which has been read and has committee recommendation of DO PASS, the roll was called and there were 44 YEAS, 8 NAYS, 1 ABSENT AND NOT VOTING.

YEAS: Axtman; Dotzenrod; Ewen; Freborg; Hanson; Heinrich; Holmberg; Ingstad; Keller; Kelsh; Kinnoin; Krauter; Krebsbach; Langley; Lashkowitz; Lips; Lodoen; Maixner; Mathern; Maxson; Meyer, J.; Meyer, W.; Moore; Mushik; Nalewaja; Nelson; Nething; Olson; Peterson; Redlin; Richard; Robinson; Satrom; Schoenwald; Stenehjem; Stromme; Tallackson; Tennefos; Thane; Todd; Vosper; Waldera; Wogsland; Yockim

NAYS: David; Hilken; Meyer, D.; Mutch; Naaden; O'Connell; Shea; Streibel

ABSENT AND NOT VOTING: Heigaard

SB 2396 passed and the title was agreed to.

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SB 2435: A BILL for an Act to amend and reenact section 39-24-03 of the North Dakota Century Code, relating to the registration fee for snowmobiles.

## ROLL CALL

The question being on the final passage of the amended bill, which has been read and has committee recommendation of DO PASS, the roll was called and there were 43 YEAS, 10 NAYS, 0 ABSENT AND NOT VOTING.

YEAS: Dotzenrod; Ewen; Hanson; Heigaard; Heinrich; Hilken; Holmberg; Ingstad; Keller; Kelsh; Kinnoin; Krauter; Krebsbach; Langley; Lashkowitz; Lips; Lodoen; Maixner; Mathern; Maxson; Meyer, J.; Meyer, W.; Mushik; Nalewaja; Nelson; O'Connell; Olson; Redlin; Richard; Robinson; Satrom; Schoenwald; Shea; Stenehjem; Stromme; Tallackson; Tennefos; Thane; Todd; Vosper; Waldera; Wogsland; Yockim

NAYS: Axtman; David; Freborg; Meyer, D.; Moore; Mutch; Naaden; Nething; Peterson; Streibel

ABSENT AND NOT VOTING: None

SB 2435 passed and the title was agreed to.

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## MOTION

SEN. HEIGAARD MOVED that the Senate be on the Fifth order of business, and at the conclusion of the Fifth order, the Senate be on the Twelfth order of business, and at the conclusion of the Twelfth order, the Senate be on the Thirteenth order of business, and at the conclusion of the Thirteenth order, and after the reading of SB 2469, SB 2297, SB 2316, SB 2319, SB 2220, SB 2329, SB 2300, SCR 4024, and SCR 2508, the Senate stand adjourned until 12:30 p.m., Friday, February 3, 1989, which motion prevailed.

## REPORTS OF STANDING COMMITTEES

MR. PRESIDENT: Your Committee on Industry, Business and Labor (Sen. Langley, Chairman) to which was referred SB 2173 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:

Page 1, line 1, replace "section" with "sections" and after "65-02-08" insert "and 65-10-03"

Page 1, line 3, replace "repeal section 65-10-03 of the North" with "provide an effective date"

Page 1, remove line 4

Page 1, line 5, remove "Dakota workers compensation bureau"

Page 1, line 12, remove "i."

Page 1, line 17, remove the overstrike over "~~The bureau shall~~"

Page 2, line 2, after "~~bureau~~" insert "establish, by administrative rule, an hourly rate to compensate claimants' attorneys for legal services following constructive denial of a claim or issuance of an administrative order under chapter 28-32 reducing or denying benefits. "Constructive denial" means delay in payment, failure to issue an administrative order, or failure to act within ninety days of the date when all elements of filing or notice of reapplication of claim have been satisfied or a claim for additional benefits over and above benefits previously awarded has been made. The bureau shall establish, by administrative rule, a reasonable maximum fee for each stage of the proceedings, provided further that the maximum fee may be exceeded upon application of the claimant and approval of the bureau, which may not be unreasonably denied, upon a finding that the claim has clear and substantial merit and additional fees are warranted because the legal or factual issues involved in the dispute are unusually complex. The bureau may also provide, by administrative rule, an hourly fee for legal assistants or paraprofessionals, and fees for court reporters. The bureau may establish reasonable rules governing payment of fees, required fee statements, billing practices, reimbursement for costs, and other necessary rules governing payment for legal services not inconsistent with the provisions of this title. All attorneys' fees and costs must be paid from the bureau general fund" and remove the overstrike over "~~Nothing provided herein may be construed to prevent a~~"

Page 2, line 3, remove the overstrike over "~~claimant or employer from hiring or paying his or her own attorney~~" and insert immediately thereafter "however, the claimant's attorney shall not seek or obtain costs or attorney's fees from both the bureau and the claimant relative to the same services. The bureau may deny attorneys' fees upon a finding that the claim is frivolous. All disputes relating to payment or denial of attorneys' fees must be submitted to binding arbitration by a fee arbitration panel established by the state bar association for that purpose. An attorney who agrees to accept compensation from the bureau for services pursuant to this section agrees to binding fee arbitration of all disputes relating to payment or denial of fees" and remove the overstrike over the overstruck period

Page 2, remove lines 4 through 28

Page 3, remove lines 1 through 29

Page 4, remove lines 1 through 12

Page 4, after line 12, insert:

"SECTION 2. AMENDMENT. Section 65-10-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

65-10-03. Cost of appeal and attorney's fee fixed by the court bureau. The cost of the judicial appeal and an attorney's fee for the appellant's claimant's attorney shall must be set by the appellate court and taxed against borne by the bureau unless the appeal is determined to be frivolous when the claimant prevails. The claimant is deemed to have prevailed when any part of the decision of the bureau is reversed or the claim is remanded to the bureau for further administrative proceedings. In an appeal by the bureau to the North Dakota supreme court, the claimant shall recover costs and attorneys' fees incurred in responding to the appeal. The bureau shall pay such attorney's fee from the bureau general fund. The amount of such attorney's fee shall must be determined in the same manner as prescribed by the bureau for attorney fees, and the amount of attorney's fee already allowed in administrative proceedings before the bureau shall must be taken into consideration. The bureau shall, pursuant to section 65-02-08, establish a maximum fee to be paid in an appeal, provided that the maximum fee may be exceeded upon application of the claimant and approval of the court, upon a finding that the claim had clear and substantial merit and that the legal or factual issues involved in the appeal were unusually complex. Notwithstanding the foregoing, the bureau is liable for its costs on appeal if the decision of the bureau is affirmed.

Such attorney's fee shall constitute the entire remuneration for the appellant's attorney for all services in connection with the appeal. Nothing provided herein shall be construed to prevent a claimant or employer from hiring or paying his or her own attorney.

SECTION 3. EFFECTIVE DATE. This Act applies to all legal services rendered to claimants on or after July 1, 1989."

Renumber accordingly

SB 2173 was placed on the Sixth order of business on the calendar for the succeeding legislative day.

MR. PRESIDENT: Your Committee on Political Subdivisions (Sen. Dotzenrod, Chairman) to which was referred SB 2220 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.

SB 2220 was placed on the Eleventh order of business on the calendar for the succeeding legislative day.

MR. PRESIDENT: Your Committee on State and Federal Government (Sen. D. Meyer, Chairman) to which was rereferred SB 2262 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:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to repeal section 19-02-24 of the North Dakota Century Code, relating to the use of rooms in which food is stored, prepared, or sold.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. REPEAL. Section 19-02-24 of the 1987 Supplement to the North Dakota Century Code is hereby repealed."

Renumber accordingly

SB 2262 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 (Sen. Langley, Chairman) to which was referred SB 2263 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:

Page 1, line 8, after the first underscored comma insert "excluding religious corporations,"

Page 2, line 8, after "corporation" insert ", excluding religious corporations,"

Page 3, line 4, after "corporation" insert ", excluding religious corporations,"

Page 3, line 17, after "corporation" insert ", excluding religious corporations,"

Page 5, line 2, after the underscored comma insert "excluding religious corporations,"

Renumber accordingly

SB 2263 was placed on the Sixth order of business on the calendar for the succeeding legislative day.

MR. PRESIDENT: Your Committee on Political Subdivisions (Sen. Dotzenrod, Chairman) to which was rereferred SB 2297 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.

SB 2297 was placed on the Eleventh order of business on the calendar for the succeeding legislative day.

MR. PRESIDENT: Your Committee on Political Subdivisions (Sen. Dotzenrod, Chairman) to which was referred SB 2300 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 PLACED ON THE CALENDAR WITHOUT RECOMMENDATION.

SB 2300 was placed on the Eleventh order of business on the calendar for the succeeding legislative day.

MR. PRESIDENT: Your Committee on Human Services and Veterans Affairs (Sen. Kelsh, Chairman) to which was referred SB 2316 has had the same under

consideration and recommends by a vote of 5 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING that the same DO PASS.

SB 2316 was placed on the Eleventh order of business on the calendar for the succeeding legislative day.

MR. PRESIDENT: Your Committee on Agriculture (Sen. W. Meyer, Chairman) to which was rereferred SB 2319 has had the same under consideration and recommends by a vote of 7 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING that the same DO PASS.

SB 2319 was placed on the Eleventh order of business on the calendar for the succeeding legislative day.

MR. PRESIDENT: Your Committee on Political Subdivisions (Sen. Dotzenrod, Chairman) to which was referred SB 2329 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.

SB 2329 was placed on the Eleventh order of business on the calendar for the succeeding legislative day.

MR. PRESIDENT: Your Committee on Transportation (Sen. Hilken, Chairman) to which was referred SB 2469 has had the same under consideration and recommends by a vote of 7 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING that the same DO PASS.

SB 2469 was placed on the Eleventh order of business on the calendar for the succeeding legislative day.

MR. PRESIDENT: Your Committee on Agriculture (Sen. W. Meyer, Chairman) to which was referred SB 2508 has had the same under consideration and recommends by a vote of 8 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING that the same DO PASS.

SB 2508 was placed on the Eleventh order of business on the calendar for the succeeding legislative day.

MR. PRESIDENT: Your Committee on Natural Resources (Sen. Krauter, Chairman) to which was referred SCR 4024 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.

SCR 4024 was placed on the Eleventh order of business on the calendar for the succeeding legislative day.

#### FIRST READING OF HOUSE BILLS

HB 1129: A BILL for an Act to amend and reenact subsection 3 of section 61-04-01.1, sections 61-04-04.1, 61-04-05, 61-04-27, 61-04-29, and 61-04-30 of the North Dakota Century Code, relating to the definition of domestic use, application fees for water permits, notice of a water permit application, water use reports required by the state engineer, and enforcement of water rights and the enjoining of unauthorized uses through the administrative process; and to provide a penalty.

Was read the first time and referred to the Committee on Natural Resources.

HB 1144: A BILL for an Act to amend and reenact section 39-24-05 of the North Dakota Century Code, relating to the disposition of snowmobile registration fees.

Was read the first time and referred to the Committee on Natural Resources.

HB 1174: A BILL for an Act to create and enact a new section to chapter 39-16.1 of the North Dakota Century Code, relating to verification of operator's liability insurance; and to amend and reenact section 39-06-34 of the North Dakota Century Code, relating to the immediate suspension of licenses of drivers constituting a threat to the motoring public.

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

HB 1177: A BILL for an Act to amend and reenact sections 6-09.4-03, 6-09.4-06, 6-09.4-09, 6-09.4-10, 6-09.4-12, 6-09.4-13, 6-09.4-14, 6-09.4-16, 6-09.4-17, 6-09.4-18, 6-09.4-19, 6-09.4-20, and 6-09.4-21 and subdivision 1 of subsection 1 of section 28-32-01 of the North Dakota Century Code, relating to the North Dakota municipal bond bank.

Was read the first time and referred to the Committee on Political Subdivisions.

HB 1240: A BILL for an Act to create and enact a new section to chapter 15-36 of the North Dakota Century Code, relating to the issuance of temporary teachers' certificates.

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

HB 1288: A BILL for an Act to amend and reenact section 43-11-02 of the North Dakota Century Code, relating to exemptions from provisions governing cosmetologists.

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

HB 1347: A BILL for an Act to amend and reenact section 15-47-27 and subsection 5 of section 15-47-38 of the North Dakota Century Code, relating to performance evaluations of teachers.

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

HB 1371: A BILL for an Act to amend and reenact section 15-39.1-05 of the North Dakota Century Code, relating to the membership of the board of trustees of the teachers' fund for retirement; to provide for application of this Act; and to provide an effective date.

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

HB 1392: A BILL for an Act to create a new section to chapter 61-24.3 of the North Dakota Century Code, relating to the distribution of water through the southwest pipeline project.

Was read the first time and referred to the Committee on Natural Resources.

HB 1397: A BILL for an Act to amend and reenact section 61-06-01 of the North Dakota Century Code, relating to the residency requirements of the board of directors of an irrigation district.

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

HB 1400: A BILL for an Act to amend and reenact sections 15-40.2-03 and 15-40.2-04 of the North Dakota Century Code, relating to an exemption from tuition payments for students enrolled in approved alternative education programs.

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

HB 1409: A BILL for an Act to amend and reenact sections 26.1-41-04 and 26.1-41-14 of the North Dakota Century Code, relating to optional excess no-fault benefits.

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

HB 1529: A BILL for an Act to amend and reenact sections 54-03.1-03 and 54-44.1-07 of the North Dakota Century Code, relating to the organizational session agenda and presentation of the executive budget.

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

FIRST READING OF HOUSE CONCURRENT RESOLUTIONS

HCR 3024: A concurrent resolution urging Congress to amend the Surface Mining Control and Reclamation Act of 1977, to allow the duration of the responsibility period for revegetation to be determined by each state regulatory authority.

Was read the first time and referred to the Committee on Natural Resources.

HCR 3030: A concurrent resolution inviting President Bush to visit North Dakota in recognition of the Centennial of the admittance of the states formally comprising the Dakota Territory.

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

HCR 3033: A concurrent resolution directing the Legislative Council to study and evaluate the adequacy of compensation to justices of the Supreme Court and judges of the district courts, legislators, and other elected state officials.

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

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

PATRICIA CONRAD, Secretary