

JOURNAL OF THE SENATE

Fifty-second Legislative Assembly

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Bismarck, March 14, 1991

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

The prayer was offered by Rev. John Bushell, United Methodist Church, Harvey.

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

A quorum was declared by the President.

MESSAGE to the HOUSE from the SENATE (Marion Houn, Secretary)

MR. SPEAKER: The Senate has passed and your favorable consideration is requested on: SB 2584, SCR 4060, SCR 4062, SCR 4066.

SIGNING of BILLS and RESOLUTIONS

The President signed the following enrolled bills and resolution: SB 2073, SB 2080, SB 2093, SB 2095, SB 2102, SB 2152, SB 2196, SB 2356, SCR 4002.

MESSAGE to the HOUSE from the SENATE (Marion Houn, Secretary)

MR. SPEAKER: The President has signed and your signature is respectfully requested on: SB 2073, SB 2080, SB 2093, SB 2095, SB 2102, SB 2152, SB 2196, SB 2356, SCR 4002.

MESSAGE to the HOUSE from the SENATE (Marion Houn, Secretary)

MR. SPEAKER: The Senate has passed unchanged: HB 1207, HB 1284, HB 1316.

MESSAGE to the HOUSE from the SENATE (Marion Houn, Secretary)

MR. SPEAKER: The Senate has amended and subsequently passed: HB 1053, HB 1208, HB 1410, HB 1441, HB 1523.

MESSAGE to the HOUSE from the SENATE (Marion Houn, Secretary)

MR. SPEAKER: The Senate has amended, subsequently passed, and the emergency clause carried: HB 1165.

MESSAGE to the HOUSE from the SENATE (Marion Houn, Secretary)

MR. SPEAKER: The Senate has passed unchanged: HB 1218.

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

MR. PRESIDENT: The Speaker has signed: SCR 4064.

DELIVERY OF ENROLLED BILLS AND RESOLUTIONS

The following resolution was delivered to the Secretary of State for his filing at the hour of 10:30 a.m., March 14, 1991: SCR 4064.

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

MR. PRESIDENT: The Speaker has signed and your signature is respectfully requested on: HB 1010, HB 1012, HB 1042, HB 1052, HB 1077, HB 1084, HB 1106, HB 1163, HB 1206, HB 1253, HB 1258, HB 1264, HB 1308, HB 1593.

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

MR. PRESIDENT: The Speaker has signed: SB 2094, SB 2097, SB 2138, SB 2155, SB 2162, SB 2174, SB 2179, SB 2375, SB 2377, SB 2383, SB 2399, SB 2449, SB 2455, SB 2462.

DELIVERY OF ENROLLED BILLS AND RESOLUTIONS

The following bills were delivered to the Governor for his approval at the hour of 10:41 a.m., March 14, 1991: SB 2094, SB 2097, SB 2138, SB 2155, SB 2162, SB 2174, SB 2179, SB 2375, SB 2377, SB 2383, SB 2399, SB 2449, SB 2455, SB 2462.

MESSAGE to the SENATE from the HOUSE (Roy Gilbreath, Chief Clerk)
MR. PRESIDENT: The House has passed unchanged: SB 2170, SB 2345, SB 2359, SB 2363, SB 2388, SB 2391, SB 2400, SB 2424, SB 2460, SB 2511, SB 2517, SB 2521, SB 2558.

MESSAGE to the SENATE from the HOUSE (Roy Gilbreath, Chief Clerk)
MR. PRESIDENT: The House has passed unchanged and the emergency clause carried: SB 2495.

MESSAGE to the SENATE from the HOUSE (Roy Gilbreath, Chief Clerk)
MR. PRESIDENT: The House has amended and failed to pass: SB 2501.

MESSAGE to the SENATE from the HOUSE (Roy Gilbreath, Chief Clerk)
MR. PRESIDENT: The House has amended and subsequently passed: SB 2397.

Page 1, line 20, replace "deliver" with "deposit with the United States postal service, facsimile, or deliver personally"

Renumber accordingly

MESSAGE to the SENATE from the HOUSE (Roy Gilbreath, Chief Clerk)
MR. PRESIDENT: The House has failed to pass: SB 2365, SB 2490.

CORRECTION and REVISION of the JOURNAL (Sen. Robinson, Chairman)
MR. PRESIDENT: Your Committee on Correction and Revision of the Journal has carefully examined the Journal of the Forty-sixth Day and recommends that it be corrected as follows and when so corrected, recommends that it be approved:

Page 975, line 34, replace "2583" with "2584"

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

REPORTS OF STANDING COMMITTEES

HB 1255: Committee on Judiciary (Sen. Maxson, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (8 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). The proposed amendment was placed on the Sixth order on the calendar.

Page 1, line 13, replace "also" with "the court must order that the person commencing the action" and after "and" insert "actual"

Renumber accordingly

HB 1261, as engrossed: Committee on Judiciary (Sen. Maxson, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (8 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). The proposed amendment was placed on the Sixth order on the calendar.

Page 1, line 10, replace "twelve" with "fifteen"

Page 1, line 13, replace "drawee" with "depository bank"

Page 1, line 14, after "dollars" insert "if recovered by the collection agency"

Page 2, line 17, replace "twelve" with "fifteen"

Page 3, line 11, replace "twelve" with "fifteen"

Page 3, line 27, replace "twelve" with "fifteen"

Page 4, line 22, replace "twelve" with "fifteen"

Renumber accordingly

HB 1343, as engrossed: Committee on Human Services and Veterans Affairs (Sen. Mathern, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). The proposed amendment was placed on the Sixth order on the calendar.

Page 2, line 2, after "upon" insert "request of any of the parties or upon the determination of the court that it would be an appropriate"

Page 2, line 5, after "section" insert ", and the court may appoint a guardian ad litem to protect the interests of the child"

Renumber accordingly

CONSIDERATION OF AMENDMENTS

SB 2573: SEN. HEINRICH (Committee on Education) MOVED that the amendments on SJ pages 979-980 be adopted with DO NOT PASS, which motion prevailed.

MOTIONS

SEN. WOGSLAND MOVED that the rules be suspended and that SB 2573 be deemed properly engrossed and placed on the calendar, as amended, for second reading and final passage, which motion prevailed.

SEN. O'CONNELL MOVED that Engrossed SB 2573 be amended as follows:

Page 1, line 2, after "assistance" insert "; and to provide an effective date"

Page 1, after line 11, insert:

"SECTION 2. EFFECTIVE DATE. This Act becomes effective on July 1, 1993."

Renumber accordingly

SEN. O'CONNELL MOVED that the proposed amendments be adopted, which motion prevailed.

SECOND READING OF SENATE BILL

SB 2573: A BILL for an Act to amend and reenact subsection 2 of section 15-62.2-00.1 of the North Dakota Century Code, relating to student financial assistance; and to provide an effective date.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 23 YEAS, 29 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Bowman; Dotzenrod; Graba; Hanson, E.; Heinrich; Jerome; Keller; Kelly; Kinnoin; Lindaas; Lindgren; Lips; Marks; Mathern; Mushik; Naaden; Nelson; O'Connell; Redlin; Schoenwald; Tallackson; Tennefos; Tomac

NAYS: David; DeKrey; Evanson; Freborg; Goetz; Hanson, O.; Heigaard; Holmberg; Ingstad; Kelsh; Krauter; Krebsbach; Langley; Maxson; Meyer; Moore; Mutch; Nalewaja; Nething; Peterson; Robinson; Satrom; Solberg; Stenehjem; Streibel; Thane; Traynor; Wogsland; Yockim

ABSENT AND NOT VOTING: Vosper

SB 2573 lost.

MOTION

SEN. WOGSLAND MOVED that the rules be suspended and that SB 2582, SB 2588, SB 2590, SCR 4059, HB 1475, HB 1578, and HB 1595 be deemed properly engrossed and placed on the calendar, as amended, for second reading and final passage, which motion prevailed.

CONSIDERATION OF AMENDMENTS

SB 2582: SEN. HEINRICH (Committee on Education) MOVED that the amendments on SJ page 980 be adopted with DO PASS, which motion prevailed.

SECOND READING OF SENATE BILL

SB 2582: A BILL for an Act to create and reenact section 15-29-06 of the North Dakota Century Code, relating to vacancies on school boards.

ROLL CALL

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

YEAS: Bowman; David; DeKrey; Dotzenrod; Evanson; Freborg; Goetz; Graba; Hanson, E.; Hanson, O.; Heigaard; Heinrich; Holmberg; Ingstad; Jerome; Keller; Kelly; Kelsh; Kinnoin; Krauter; Krebsbach; Langley; Lindaas; Lindgren; Lips; Marks; Mathern; Maxson; Meyer; Moore; Mushik; Mutch; Naaden; Nalewaja; Nelson; Nething; O'Connell; Peterson; Redlin; Robinson; Satrom; Schoenwald; Solberg; Stenehjem; Streibel; Tallackson; Tennefos; Thane; Tomac; Traynor; Wogsland; Yockim

ABSENT AND NOT VOTING: Vosper

SB 2582 passed and the title was agreed to.

CONSIDERATION OF AMENDMENTS

SB 2588: SEN. MATHERN (Committee on Human Services and Veterans Affairs) MOVED that the amendments on SJ pages 980-981 be adopted with DO PASS, which motion prevailed.

SECOND READING OF SENATE BILL

SB 2588: A BILL for an Act to create and enact a new chapter to title 23 of the North Dakota Century Code, relating to residential care facilities for autistic persons; to provide a penalty; and to declare an emergency.

ROLL CALL

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

YEAS: Bowman; David; DeKrey; Dotzenrod; Evanson; Freborg; Goetz; Graba; Hanson, E.; Hanson, O.; Heigaard; Heinrich; Holmberg; Ingstad; Jerome; Keller; Kelly; Kelsh; Kinnoin; Krauter; Krebsbach; Langley; Lindaas; Lindgren; Lips; Marks; Mathern; Maxson; Meyer; Moore; Mushik; Mutch; Naaden; Nalewaja; Nelson; Nething; O'Connell; Peterson; Redlin; Robinson; Satrom; Schoenwald; Solberg; Stenehjem; Streibel; Tallackson; Tennefos; Thane; Tomac; Traynor; Wogsland; Yockim

ABSENT AND NOT VOTING: Vosper

SB 2588 passed, the title was agreed to, and the emergency clause carried.

CONSIDERATION OF AMENDMENTS

SB 2590: SEN. HEINRICH (Committee on Education) MOVED that the amendments on SJ pages 981-982 be adopted with DO PASS, which motion prevailed.

SECOND READING OF SENATE BILL

SB 2590: A BILL for an Act to create and enact two new sections to title 15 of the North Dakota Century Code, relating to the establishment and implementation of student performance standards and performance assessment methods, and participatory school decisionmaking; to provide a continuing appropriation; and to provide an effective date.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 43 YEAS, 9 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Dotzenrod; Evanson; Freborg; Goetz; Graba; Hanson, E.; Hanson, O.; Heigaard; Heinrich; Holmberg; Ingstad; Jerome; Keller; Kelly; Kelsh; Kinnoin; Krauter; Krebsbach; Langley; Lindaas; Lindgren; Marks; Mathern; Maxson; Meyer; Mushik; Nalewaja; Nelson; Nething; O'Connell; Peterson; Redlin; Robinson; Satrom; Schoenwald; Stenehjem; Tallackson; Tennefos; Thane; Tomac; Traynor; Wogsland; Yockim

NAYS: Bowman; David; DeKrey; Lips; Moore; Mutch; Naaden; Solberg; Streibel

ABSENT AND NOT VOTING: Vosper

SB 2590 passed and the title was agreed to.

CONSIDERATION OF AMENDMENTS

SCR 4059: SEN. HEINRICH (Committee on Education) MOVED that the amendments on SJ page 982 be adopted with DO PASS, which motion prevailed.

SECOND READING OF SENATE CONCURRENT RESOLUTION

SCR 4059: A concurrent resolution urging that a high quality physical education program be provided to each North Dakota student from kindergarten through grade 12.

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

SCR 4059 was declared adopted.

CONSIDERATION OF AMENDMENTS

HB 1200: SEN. DOTZENROD (Committee on Finance and Taxation) MOVED that the amendments on SJ pages 982-983 be adopted and then be placed on the Fourteenth order with DO PASS, which motion prevailed.

HB 1450: SEN. HEINRICH (Committee on Education) MOVED that the amendments on SJ pages 983-984 be adopted and then be placed on the Fourteenth order with DO PASS, which motion prevailed.

MOTION

SEN. KELSH MOVED that the rules be suspended and that HB 1450 be deemed properly engrossed and placed on the calendar, as amended, for second reading and final passage, which motion prevailed.

SECOND READING OF HOUSE BILL

HB 1450: A BILL for an Act to create and enact a new section to House Bill No. 1421, compiled as chapter 198 of the 1989 Session Laws of North Dakota, relating to high school diplomas for students receiving home-based instruction.

ROLL CALL

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

YEAS: Bowman; David; DeKrey; Dotzenrod; Evanson; Freborg; Goetz; Graba; Hanson, E.; Hanson, O.; Heigaard; Heinrich; Holmberg; Ingstad; Jerome; Keller; Kelly; Kelsh; Kinnoin; Krauter; Krebsbach; Langley; Lindaas; Lindgren; Lips; Marks; Mathern; Maxson; Meyer; Moore; Mushik; Mutch; Naaden; Nalewaja; Nelson; Nething; O'Connell; Peterson; Redlin;

Robinson; Satrom; Schoenwald; Solberg; Stenehjem; Streibel; Tallackson; Tennesfos; Thane; Tomac; Traynor; Vosper; Wogsland; Yockim

HB 1450 passed and the title was agreed to.

CONSIDERATION OF AMENDMENTS

HB 1475: SEN. MATHERN (Committee on Human Services and Veterans Affairs) MOVED that the amendments on SJ page 984 be adopted with DO PASS, which motion prevailed.

SECOND READING OF HOUSE BILL

HB 1475: A BILL for an Act to amend and reenact section 14-15-16 of the North Dakota Century Code, relating to disclosure of adoption records.

ROLL CALL

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

YEAS: Bowman; David; DeKrey; Dotzenrod; Evanson; Freborg; Goetz; Graba; Hanson, E.; Hanson, O.; Heigaard; Heinrich; Holmberg; Ingstad; Jerome; Keller; Kelly; Kelsh; Kinnoin; Krauter; Krebsbach; Langley; Lindaas; Lindgren; Lips; Marks; Mathern; Maxson; Meyer; Moore; Mushik; Mutch; Naaden; Nalewaja; Nelson; Nething; O'Connell; Peterson; Redlin; Robinson; Satrom; Schoenwald; Solberg; Stenehjem; Streibel; Tallackson; Tennesfos; Thane; Tomac; Traynor; Vosper; Wogsland; Yockim

HB 1475 passed and the title was agreed to.

CONSIDERATION OF AMENDMENTS

HB 1486: SEN. MAXSON (Committee on Judiciary) MOVED that the amendments on SJ page 984 be adopted and then be placed on the Fourteenth order with DO PASS, which motion prevailed.

HB 1569: SEN. MATHERN (Committee on Human Services and Veterans Affairs) MOVED that the amendments on SJ pages 984-985 be adopted and then be placed on the Fourteenth order with DO PASS, which motion prevailed.

HB 1578: SEN. MATHERN (Committee on Human Services and Veterans Affairs) MOVED that the amendments on SJ page 985 be adopted with DO PASS, which motion prevailed.

SECOND READING OF HOUSE BILL

HB 1578: A BILL for an Act to create and enact a new section to chapter 15-59 of the North Dakota Century Code, relating to payment of attorneys' fees to the parent or guardian of a handicapped child or a handicapped adult in certain cases; and to declare an emergency.

ROLL CALL

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

YEAS: Bowman; David; DeKrey; Dotzenrod; Evanson; Freborg; Goetz; Graba; Hanson, E.; Hanson, O.; Heigaard; Heinrich; Holmberg; Ingstad; Jerome; Keller; Kelly; Kelsh; Kinnoin; Krauter; Krebsbach; Langley; Lindaas; Lindgren; Lips; Marks; Mathern; Maxson; Meyer; Mushik; Mutch; Naaden; Nalewaja; Nelson; Nething; O'Connell; Peterson; Redlin; Robinson; Satrom; Schoenwald; Solberg; Stenehjem; Streibel; Tallackson; Tennesfos; Thane; Tomac; Traynor; Vosper; Wogsland; Yockim

NAYS: Moore

HB 1578 passed, the title was agreed to, and the emergency clause carried.

CONSIDERATION OF AMENDMENTS

HB 1595: SEN. MATHERN (Committee on Human Services and Veterans Affairs)
MOVED that the amendments on SJ pages 985-986 be adopted with DO PASS,
which motion prevailed.

SECOND READING OF HOUSE BILL

HB 1595: A BILL for an Act to create and enact a new section to chapter
50-24.4 of the North Dakota Century Code, relating to payments for
private rooms in nursing homes.

ROLL CALL

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

YEAS: Bowman; David; DeKrey; Dotzenrod; Evanson; Freborg; Goetz; Graba;
Hanson, E.; Hanson, O.; Heigaard; Heinrich; Holmberg; Ingstad; Jerome;
Keller; Kelly; Kelsh; Kinnoin; Krauter; Krebsbach; Langley; Lindaas;
Lindgren; Lips; Marks; Mathern; Maxson; Meyer; Moore; Mushik; Mutch;
Naaden; Nalewaja; Nelson; Nething; O'Connell; Peterson; Redlin;
Robinson; Satrom; Schoenwald; Solberg; Stenehjem; Streibel; Tallackson;
Tennefos; Thane; Tomac; Traynor; Vosper; Wogsland; Yockim

HB 1595 passed and the title was agreed to.

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 1604, HB 1608, HB 1613.

MOTIONS

SEN. WOGSLAND MOVED that SCR 4061 be moved to the top of the Tenth order,
which motion prevailed.

SEN. WOGSLAND MOVED that Joint Rule 206, subsection 6, be suspended, which
motion prevailed.

SECOND READING OF SENATE CONCURRENT RESOLUTION ON CONSENT CALENDAR

SCR 4061: A concurrent resolution directing the Legislative Council to study
the investigation, prosecution, and treatment of offenders in child
sexual abuse cases.

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

The resolution was declared adopted on a voice vote.

SECOND READING OF SENATE BILL

SB 2592: A BILL for an Act to create and enact a new section to chapter
65-04 of the North Dakota Century Code, relating to workers'
compensation coverage of aerial applicators.

ROLL CALL

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

NAYS: Bowman; David; DeKrey; Dotzenrod; Evanson, Freborg; Goetz; Graba;
Hanson, E.; Hanson, O.; Heigaard; Heinrich; Holmberg; Ingstad; Jerome;
Keller; Kelly; Kelsh; Kinnoin; Krauter; Krebsbach; Langley; Lindaas;

Lindgren; Lips; Marks; Mathern; Maxson; Meyer; Moore; Mushik; Mutch; Naaden; Nalewaja; Nelson; Nething; O'Connell; Peterson; Redlin; Robinson; Satrom; Schoenwald; Solberg; Stenehjem; Streibel; Tallackson; Tennefos; Thane; Tomac; Traynor; Vosper; Wogsland; Yockim

SB 2592 lost.

MOTIONS

SEN. WOGSLAND MOVED that the vote by which SB 2592 and SB 2573 lost be reconsidered and the motion to reconsider be laid on the table, which motion prevailed.

SEN. WOGSLAND MOVED that the vote by which SB 2582, SB 2588, SB 2590, SCR 4059, and SCR 4061 passed be reconsidered and the motion to reconsider be laid on the table, which motion prevailed.

SEN. WOGSLAND MOVED that the rules be suspended and that SB 2582, SB 2588, SB 2590, SCR 4059, and SCR 4061, be messaged to the House immediately, which motion prevailed.

SECOND READING OF HOUSE BILL

HB 1381: A BILL for an Act to create and enact a new section to chapter 24-05 of the North Dakota Century Code, relating to liability for damages for encroachment upon county roads.

ROLL CALL

The question being on the final passage of the amended bill, which has been read and has committee recommendation of DO NOT PASS, the roll was called and there were 28 YEAS, 25 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

YEAS: Dotzenrod; Goetz; Graba; Hanson, E.; Heigaard; Heinrich; Jerome; Keller; Kelly; Kelsh; Krauter; Langley; Lindaas; Marks; Mathern; Maxson; Mushik; Nething; O'Connell; Peterson; Redlin; Robinson; Satrom; Schoenwald; Tallackson; Tomac; Wogsland; Yockim

NAYS: Bowman; David; DeKrey; Evanson; Freborg; Hanson, O.; Holmberg; Ingstad; Kinnoin; Krebsbach; Lindgren; Lips; Meyer; Moore; Mutch; Naaden; Nalewaja; Nelson; Solberg; Stenehjem; Streibel; Tennefos; Thane; Traynor; Vosper

HB 1381 passed and the title was agreed to.

MOTION

SEN. SCHOENWALD MOVED that the vote by which HB 1381 passed be reconsidered and the motion to reconsider be laid on the table, which motion prevailed on a verification vote.

SECOND READING OF HOUSE BILLS

HB 1382: A BILL for an Act to authorize the state historical society to transfer the Fort Totten state historic site; to amend and reenact sections 54-01-09.1, 55-10-03, and 55-10-05 of the North Dakota Century Code, relating to the Fort Totten state historic site; 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, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Bowman; David; DeKrey; Dotzenrod; Evanson; Freborg; Goetz; Graba; Hanson, E.; Hanson, O.; Heigaard; Heinrich; Holmberg; Jerome; Keller; Kelly; Kelsh; Kinnoin; Krauter; Krebsbach; Langley; Lindaas; Lindgren; Lips; Marks; Mathern; Maxson; Meyer; Moore; Mushik; Mutch; Naaden;

Nalewaja; Nelson; Nething; O'Connell; Peterson; Redlin; Robinson; Satrom; Schoenwald; Solberg; Stenehjem; Streibel; Tallackson; Tennefos; Thane; Tomac; Traynor; Vosper; Wogsland; Yockim

ABSENT AND NOT VOTING: Ingstad

HB 1382 passed and the title was agreed to.

HB 1445: A BILL for an Act to amend and reenact subsection 2 of section 11-10.1-05 of the North Dakota Century Code, relating to the appointment of county assessors for townships and cities.

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 20 YEAS, 32 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Freborg; Goetz; Graba; Hanson, E.; Heigaard; Heinrich; Holmberg; Ingstad; Jerome; Kelly; Lindgren; Mathern; Maxson; Nalewaja; Peterson; Redlin; Schoenwald; Stenehjem; Tennefos; Yockim

NAYS: Bowman; David; DeKrey; Dotzenrod; Evanson; Hanson, O.; Keller; Kelsh; Kinnoin; Krauter; Krebsbach; Langley; Lindaas; Lips; Marks; Meyer; Moore; Mushik; Mutch; Naaden; Nelson; Nething; O'Connell; Robinson; Solberg; Streibel; Tallackson; Thane; Tomac; Traynor; Vosper; Wogsland

ABSENT AND NOT VOTING: Satrom

HB 1445 lost.

MOTIONS

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

SEN. WOGSLAND MOVED that SCR 4069 be returned to the Senate floor from the Committee on State and Federal Government and be rereferred to the Joint Constitutional Revision Committee, which motion prevailed. Pursuant to Sen. Wogsland's motion, SCR 4069 was rereferred.

SEN. WOGSLAND MOVED that Senate Rule 402, subsection 4, be amended to read "forty-ninth" instead of "forty-seventh", which motion prevailed.

SEN. WOGSLAND MOVED that the Senate be on the Fifth order of business, and at the conclusion of the Fifth order, the Senate be on the Thirteenth order of business, and at the conclusion of the Thirteenth order, the Senate be on the Sixteenth order of business, and at the conclusion of the Sixteenth order, the Senate stand adjourned until 12:30 p.m., Friday, March 15, 1991, which motion prevailed.

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

MR. PRESIDENT: The House has passed and your favorable consideration is requested on: HCR 3063, HCR 3065, HCR 3068, HCR 3069.

REPORTS OF STANDING COMMITTEES

SB 2579: Committee on Finance and Taxation (Sen. Dotzenrod, Chairman) recommends DO NOT PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2579 was placed on the Eleventh order on the calendar.

SB 2580: Committee on Finance and Taxation (Sen. Dotzenrod, Chairman) recommends DO PASS (5 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2580 was placed on the Eleventh order on the calendar.

SB 2587: Committee on Finance and Taxation (Sen. Dotzenrod, Chairman) recommends DO NOT PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2587 was placed on the Eleventh order on the calendar.

SB 2589: Committee on Human Services and Veterans Affairs (Sen. Mathern, Chairman) recommends DO NOT PASS (4 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). SB 2589 was placed on the Eleventh order on the calendar.

SCR 4010: Joint Constitutional Revision Committee (Sen. O'Connell, Chairman) recommends DO NOT PASS (10 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SCR 4010 was placed on the Eleventh order on the calendar.

SCR 4015: Joint Constitutional Revision Committee (Sen. O'Connell, Chairman) recommends DO NOT PASS (9 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). SCR 4015 was placed on the Eleventh order on the calendar.

HB 1007: Committee on Appropriations (Sen. Tallackson, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). The proposed amendment was placed on the Sixth order on the calendar.

Page 1, line 13, replace "340,000" with "400,000"

Page 1, line 14, replace "480,870" with "540,870"

Page 1, after line 14, insert:

"SECTION 2. ALCOHOL AND DRUG ABUSE EDUCATION PROGRAM - EXPENDITURE LIMITATIONS. Not more than ten percent of the moneys appropriated in the grants line item for the native American alcohol and drug abuse education program may be spent for administrative costs or other nondirect service costs."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

DEPARTMENT 316 - INDIAN AFFAIRS COMMISSION

This amendment increases the grants line item by \$60,000 from the general fund to provide additional funding for the Native American alcohol and drug abuse program.

In addition, a section is added to the bill providing that not more than 10 percent of the \$400,000 appropriated in the grants line item for the Native American alcohol and drug abuse program may be spent on administrative costs or other nondirect service costs.

HB 1110, as engrossed: Committee on Education (Sen. Heinrich, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). The proposed amendment was placed on the Sixth order on the calendar.

Page 1, line 1, after "Act" insert "to create and enact a new section to chapter 43-12.1 of the North Dakota Century Code, relating to establishment and duties of a prescriptive authority committee; and"

Page 2, line 9, after the period insert:

"For purposes of this subdivision:

(1) "Prescriptive practices" means assessing the need for drugs, immunizing agents, or devices and writing a prescription to be filled by a licensed pharmacist. Prescriptive practices must be consistent with the scope of practice submitted by the registered nurse to obtain advanced licensure.

(2) "Supervision of a licensed physician" means performance under a contract with a licensed physician for review and acknowledgement of appropriate prescriptive practices for implementation by the registered nurse with advanced licensure who is authorized by the board to write a prescription to be filled by a licensed pharmacist."

Page 2, after line 17, insert:

"SECTION 3. A new section to chapter 43-12.1 of the North Dakota Century Code is created and enacted as follows:

Prescriptive practices for registered nurses with advanced licenses. The nature and extent of prescriptive practices must be determined by a prescriptive authority committee comprised of two members of the board of nursing, one of whom must be a registered nurse; one physician appointed by the board of medical examiners; and one pharmacist appointed by the board of pharmacy. The committee may retain consultants as necessary. The committee shall recommend rules regarding prescriptive practices for adoption by the board. Rules adopted by the board must include the evidence required by the board as verification of education and training in pharmacology and clinical management of drug therapy in order to consider an application for prescriptive privileges, and the nature and extent of the collaboration and consultation required from the supervising physician. The application for prescriptive practices must include an affidavit from the supervising physician acknowledging the manner of review and approval of the planned prescriptive practices. The board shall notify the board of pharmacy on an annual basis, or more frequent basis if necessary, of the registered nurses with advanced licenses who are authorized to write prescriptions to be filled by a licensed pharmacist."

ReNUMBER accordingly

HB 1262, as engrossed: Committee on Judiciary (Sen. Maxson, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (7 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). The proposed amendment was placed on the Sixth order on the calendar.

Page 1, line 2, replace "retired" with "licensed health care providers"

Page 1, line 3, remove "physicians and physicians serving under a medical residency"

Page 1, line 8, replace "retired physicians or a physician serving under a medical" with "licensed health care provider"

Page 1, line 9, remove "residency" and remove "retired"

Page 1, line 10, replace "physician or a physician serving under a medical residency" with "health care provider"

Page 1, line 11, replace "chapter 43-17" with "title 43"

Page 1, line 14, replace "physician's" with "health care provider's"

ReNUMBER accordingly

HB 1378: Committee on Industry, Business and Labor (Sen. Langley, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (7 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). The proposed amendment was placed on the Sixth order on the calendar.

Page 1, line 1, after "17" insert "and subdivision e of subsection 18" and after "52-01-01" insert "and section 65-01-03"

Page 1, line 3, after "contractor" insert "and employment" and after "purposes" insert "and to the definition of an independent contractor for workers' compensation purposes"

Page 3, line 23, replace "is an independent contractor as determined by" with "maintains a separate business establishment or the individual holds that individual out to render or renders services to the general public. In determining whether a person is an independent contractor or an employee, the primary test to be employed is"

Page 3, line 24, replace "right to control" with "common law"

Page 3, after line 24, insert:

"SECTION 2. AMENDMENT. Subdivision e of subsection 18 of section 52-01-01 of the North Dakota Century Code is amended and reenacted as follows:

- e. Service performed by an individual in the employ of ~~his~~ the individual's son, daughter, or spouse, and service performed by a child under the age of eighteen in the employ of ~~his~~ and dwelling in the household of the child's father or mother.

SECTION 3. AMENDMENT. Section 65-01-03 of the North Dakota Century Code is amended and reenacted as follows:

65-01-03. Person performing service for remuneration presumed an employee. Each person who performs services for another for a remuneration, whether the same is paid as a salary, commission, or other considerations in lieu thereof, under any agreement or contract of hire, express or implied, ~~shall be~~ is presumed to be an employee of the person for whom the services are performed, unless ~~he shall maintain~~ the person maintains a separate business establishment or ~~shall hold himself~~ holds that person out to render or shall render renders services to the general public.

In determining whether a person is an independent contractor or an employee, the primary test to be employed is the "right to control common law" test."

Renumber accordingly

HB 1420, as engrossed: Committee on Industry, Business and Labor (Sen. Langley, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (8 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). The proposed amendment was placed on the Sixth order on the calendar.

Page 1, line 6, remove "5-02-10."

Page 1, line 20, remove "or supplier" and remove ", either directly or indirectly,"

Page 1, line 21, remove ", in whole or in part,"

Page 1, line 22, remove ", supplier,"

Page 2, line 1, remove ", either directly or indirectly,"

Page 2, line 2, remove ", in whole or in part,"

Page 2, line 4, remove ", either directly or indirectly," and remove ", in whole"

Page 2, line 5, remove "or in part,"

Page 3, line 16, remove ", either directly or indirectly,"

Page 3, line 17, remove ", in whole or in part,"

Page 3, remove lines 19 through 29

Page 4, remove lines 1 through 7

Page 4, line 10, remove ", either directly or indirectly,"

Page 4, line 11, remove ", in whole or in part,"

Page 4, line 14, remove "in a border city"

Re-number accordingly

HB 1443: Committee on Finance and Taxation (Sen. Dotzenrod, Chairman) recommends DO NOT PASS (6 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). HB 1443 was placed on the Fourteenth order on the calendar.

HB 1556, as engrossed: Committee on Industry, Business and Labor (Sen. Langley, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO NOT PASS (4 YEAS, 3 NAYS, 1 ABSENT AND NOT VOTING). The proposed amendment was placed on the Sixth order on the calendar.

Page 2, line 12, after "any" insert ""700"," and after ""800"" insert a comma

Page 2, line 13, replace "until the" with a period

Page 2, remove lines 14 through 16

Re-number accordingly

HB 1561: Committee on Judiciary (Sen. Maxson, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (8 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). The proposed amendment was placed on the Sixth order on the calendar.

Page 1, line 17, after the period insert "Issuance of an annual license to practice law may not be conditioned upon payment of any surcharge, assessment, or fee in excess of the maximum fee established by this section. This section does not prohibit imposition of a reasonable fee for filing and processing reports of compliance with continuing education requirements."

Re-number accordingly

HCR 3021: Committee on Finance and Taxation (Sen. Dotzenrod, Chairman) recommends DO PASS and BE PLACED ON THE CONSENT CALENDAR (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HCR 3021 was placed on the Tenth order on the calendar.

HCR 3027: Committee on Natural Resources (Sen. Meyer, Chairman) recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HCR 3027 was placed on the Fourteenth order on the calendar.

HCR 3029, as engrossed: Committee on Agriculture (Sen. Kelsh, Chairman) recommends DO PASS and BE PLACED ON THE CONSENT CALENDAR (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HCR 3029 was placed on the Tenth order.

HCR 3039: Committee on Education (Sen. Heinrich, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). The proposed amendment was placed on the Sixth order on the calendar.

Page 1, after line 4, insert:

"WHEREAS, a student with disabilities is often best served by being provided with an appropriate education in the least restrictive environment possible; and

WHEREAS, educating a student with disabilities in the least restrictive environment possible often presents special challenges such as providing for the student's medical needs during the school day; and

WHEREAS, educating a student with disabilities in the least restrictive environment possible and meeting all of the special challenges, while ensuring that the student receives the maximum benefits from an educational experience, requires the coordination of efforts by governmental and private entities; and

WHEREAS, the cost of special education has risen dramatically in recent years; and"

Page 1, remove lines 8 and 9

Page 1, line 18, after "requirements" insert "for the provision of special education services, the delivery of medical services to students with disabilities in a school environment" and replace "delivery" with "the provision"

Page 1, line 19, after "future" insert ", and review the scope and content of existing interagency cooperative agreements for individuals with disabilities to determine whether there is a need to expand participation in the agreements"

Re-number accordingly

HCR 3062: Committee on Agriculture (Sen. Kelsh, Chairman) recommends DO PASS and BE PLACED ON THE CONSENT CALENDAR (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HCR 3062 was placed on the Tenth order.

FIRST READING OF HOUSE BILLS

HB 1604: A BILL for an Act to amend and reenact section 11-11-26 of the North Dakota Century Code, relating to bid requirements for purchases by counties.

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

HB 1608: A BILL for an Act to amend and reenact section 2 of chapter 701 of the 1989 Session Laws of North Dakota, relating to an expiration date for withdrawals from school district special reserve funds.

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

HB 1613: A BILL for an Act to create and enact a new section to chapter 57-35 and a new section to chapter 57-35.2 of the North Dakota Century Code, relating to the taxation of the branch offices of a banking subsidiary of any out-of-state bank holding company; and to amend and reenact subsection 1 of section 57-35-01 and subsection 1 of section 57-35.2-01 of the North Dakota Century Code, relating to definitions for purposes of bank taxation.

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

FIRST READING OF HOUSE CONCURRENT RESOLUTIONS

HCR 3063: A concurrent resolution urging the National Credit Union Administration to refrain from regulations on agricultural lending which would reduce the ability of North Dakota credit unions to provide agricultural loans to their members.

Was read the first time and referred to the Committee on Finance and Taxation.

HCR 3065: A concurrent resolution directing the Legislative Council to study privatization of and contracting for services by the Department of

Human Services to provide services that the department is obligated to provide.

Was read the first time and referred to the Committee on Human Services and Veterans Affairs.

HCR 3068: A concurrent resolution directing the Legislative Council to study the feasibility of implementing an educational funding formula based on current costs that considers using all sources of revenue and wealth to measure a school district's local ability to support education, incorporating sparsity of enrollment, requiring a minimum level of local effort, and providing additional funding for categories of students that are below statewide averages of per-pupil expenditures.

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

HCR 3069: A concurrent resolution directing the Legislative Council to study state transportation aid to school districts.

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

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

MARION HOUN, Secretary