

## JOURNAL OF THE SENATE

## Fifty-third Legislative Assembly

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Bismarck, March 11, 1993

The Senate convened at 1:00 p.m., with President Pro Tem Mushik presiding.

The prayer was offered by Rev. Walt Geiszler, Good Shepherd United Methodist Church, Mandan.

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

A quorum was declared by the President Pro Tem.

## MESSAGE TO THE HOUSE FROM THE SENATE (CAROL SIEGERT, SECRETARY)

MR. SPEAKER: The Senate has failed to pass: HB 1254.

## MESSAGE TO THE HOUSE FROM THE SENATE (CAROL SIEGERT, SECRETARY)

MR. SPEAKER: The Senate has passed unchanged: HB 1105, HB 1112, HB 1127, HB 1131, HB 1133, HB 1147, HB 1200, HB 1214, HB 1258, HB 1271, HB 1279, HB 1295.

## MESSAGE TO THE HOUSE FROM THE SENATE (CAROL SIEGERT, SECRETARY)

MR. SPEAKER: The Senate has amended and subsequently passed: HB 1300.

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

MADAM PRESIDENT: The Speaker has signed: SB 2055, SB 2066, SB 2071, SB 2073, SB 2080, SB 2150, SB 2164, SB 2166, SB 2208, SB 2408, SB 2443, SB 2454, SB 2456, SB 2463.

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

MADAM PRESIDENT: The House has passed unchanged: SCR 4001, SCR 4010, SCR 4012, SCR 4021, SCR 4028, SCR 4030, SCR 4032, SCR 4035, SCR 4040, SCR 4042, SCR 4044, SCR 4045, SCR 4049.

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

MADAM PRESIDENT: The House has amended and subsequently failed to pass: SB 2427.

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

MADAM PRESIDENT: The House has amended and subsequently passed: SB 2027, SB 2033, SB 2083, SB 2108, SB 2142, SB 2143, SB 2244, SB 2327, SB 2333, SB 2370, SB 2384, SB 2400, SB 2479.

## HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2027

Page 1, line 13, remove "or the agency or institution may assist in securing"

Page 1, remove lines 14 and 15

Page 1, line 16, remove "that facility"

Page 1, line 18, replace "If the center is located in available space at the agency or" with "Within the limits of legislative appropriations"

Page 1, line 19, remove "institution"

Page 2, line 1, remove "the employees using"

Renumber accordingly

## HOUSE AMENDMENTS TO SENATE BILL NO. 2033

Page 1, line 1, remove "subsection 1 of"

Page 1, line 3, after "chambers" insert "and residency"

Page 1, line 6, replace "Subsection 1 of section" with "Section"

Page 1, after line 8, insert:

**"27-05-08. Chambers - Residence."**

Page 1, after line 13, insert:

- "2. Each district judge shall reside within the county district where the judge's chambers are located, and, for the purposes of this section, the chief justice of the supreme court shall designate the respective chambers within the district to which each district judge is assigned."

Renumber accordingly

## HOUSE AMENDMENTS TO SENATE BILL NO. 2083

Page 1, line 1, after "to" insert "create and enact a new section to chapter 43-09 of the North Dakota Century Code, relating to coal mines subject to the jurisdiction of the federal mine safety and health administration; and to"

Page 1, after line 11, insert:

**"SECTION 2.** A new section to chapter 43-09 of the North Dakota Century Code is created and enacted as follows:

Exemption for coal mines. The jurisdiction of the board and other requirements of this chapter do not apply to installations, wiring, apparatus, or equipment that are part of a coal mine permitted by the public service commission and are subject to the jurisdiction of the federal mine safety and health administration."

Renumber accordingly

## HOUSE AMENDMENTS TO SENATE BILL NO. 2108

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact subsection 2 of section 52-06-04 and section 52-06-05 of the North Dakota Century Code, relating to eligibility for unemployment compensation benefits."

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

**SECTION 1. AMENDMENT.** Subsection 2 of section 52-06-04 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

2. To qualify as an insured worker an individual must have been paid wages for insured work in at least two calendar quarters of the individual's base period totaling not less than one and ~~three tenths~~ one-half times the individual's total wages paid during the quarter of the individual's base period in which the individual's wages were the highest. However, the wage credits of an individual earned during the period commencing with the end of the prior base period and ending on the date on which the individual filed a valid claim ~~shall~~ are not be available for benefit purposes in a subsequent benefit year unless, in addition thereto, ~~such~~ the individual has subsequently earned wages for insured work in an amount equal to at least ten times the

individual's current weekly benefit amount. Base-period wages used to determine an individual's monetary eligibility under this subsection, as a result of the following employment, shall may not exceed ten times the individual's weekly benefit amount:

- a. Employment by a partnership, if one-fourth or greater ownership interest in the partnership is or during such employment was owned or controlled, directly or indirectly by the individual's spouse or child, or by the individual's parent if the individual is under age eighteen, or by a combination of two or more of them.
- b. Employment by a corporation, if one-fourth or more of the ownership interest, however designated or evidenced in the corporation is or during such employment was owned or controlled, directly or indirectly, by the individual or by the individual's spouse or child, or by the individual's parent if the individual is under age eighteen, or by a combination of two or more of them.
- c. This provision does not apply if, at the time of the claim, such ownership interest has been ceded.

**SECTION 2. AMENDMENT.** Section 52-06-05 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**52-06-05. Maximum potential benefits.** Any otherwise eligible individual is entitled during the individual's benefit year to benefits for the number of times the individual's weekly benefit amount appearing in the following table on the line which includes the individual's ratio of total base-period wages to highest quarter base-period wages:

Ratio of Total Base-Period Wages to High Quarter	Times Weekly Benefit Amount
<del>1.30 to 1.49</del> <u>1.50 to 2.29</u>	12
<del>1.50 to 2.29</del> <u>2.30 to 2.44</u>	14
<del>2.30 to 2.49</del> <u>2.45 to 2.59</u>	16
<del>2.50</del> <u>2.60 to 2.74</u>	18
2.75 to 2.89	20
2.90 to 3.04	22
3.05 to 3.19	24
3.20 or more	26"

Renumber accordingly

**HOUSE AMENDMENTS TO SENATE BILL NO. 2142**

Page 1, line 11, overstrike "shall be compensated at the"

Page 1, line 12, overstrike "rate of", remove "ninety", and overstrike "dollars per day for each day actually and necessarily"

Page 1, overstrike line 13

Page 1, line 14, overstrike "mileage and expenses as are authorized for state officials and employees" and insert immediately thereafter "are entitled to receive the same compensation per day as provided in section 54-35-10 for members of the legislative council and necessary mileage and travel expenses as provided in sections 44-08-04 and 54-06-09"

Renumber accordingly

## HOUSE AMENDMENTS TO SENATE BILL NO. 2143

Page 1, line 10, overstrike "shall receive", remove "ninety", and overstrike "dollars for each day"

Page 1, overstrike lines 11 and 12

Page 1, line 13, overstrike "with such duties" and insert immediately thereafter "are entitled to receive the same compensation per day as provided in section 54-35-10 for members of the legislative council and necessary mileage and travel expenses as provided in sections 44-08-04 and 54-06-09"

ReNUMBER accordingly

## HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2244

Page 1, line 2, after "grade" insert "one and grade"

Page 1, line 7, after the second period insert "1."

Page 1, line 11, overstrike "1." and insert immediately thereafter "a."

Page 1, line 13, overstrike "2." and insert immediately thereafter "b."

Page 1, line 14, remove "However, the length of confinement of a prisoner may be"

Page 1, remove lines 15 through 17

Page 1, line 18, overstrike "3." and insert immediately thereafter "c."

Page 1, after line 19, insert:

"2. The length of confinement of a prisoner may be temporarily increased on a case-by-case basis in grade one and grade two jails upon the request of the jail administrator and the approval of the department of corrections and rehabilitation."

ReNUMBER accordingly

## HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2327

Page 1, replace lines 7 through 15 with:

"Special election costs - Reimbursement. The state shall reimburse each county for the costs incurred by the county for conducting a statewide special election that is not held on the date of a statewide primary or general election. Each county shall submit a detailed statement to the office of the budget which lists all expenses incurred by the county in conducting the special election within forty-five days after the special election. The office of the budget shall submit a request for an appropriation to reimburse the counties to the next regular or special session of the legislative assembly. The legislative assembly shall appropriate the funds necessary for the payment of the special election costs."

ReNUMBER accordingly

## HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2333

Page 1, line 2, after "to" insert "the counting of ballots and"

Page 1, line 3, replace "and the counting" with "for president" and replace "ballots" with "the United States"

Page 1, line 7, after the period insert "Counting of write-in votes -"

Page 1, line 8, remove "candidates for" and remove the underscored dash

Page 1, line 9, remove "Counting of write-in votes"

Page 1, line 10, after "1." insert "An election board or canvassing board is not required to count any write-in vote for any:

a. Person who is required to file a certificate of write-in candidacy under this section but who has not filed a certificate of candidacy and been certified as a write-in candidate.

b. Fictitious person, nonperson, or person clearly not eligible to qualify for the office for which the vote was cast.

c. Statement concerning the candidates.

2."

Page 1, line 19, replace "2." with "3."

Page 2, remove lines 14 through 20

Renumber accordingly

**HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2370**

Page 2, line 5, after "psychologist" insert "trained in a clinical program"

Page 2, line 12, overstrike "examination by a licensed addiction counselor must"

Page 2, line 13, overstrike "be limited to" and insert immediately thereafter "evaluation of" and after "dependent" insert "may be made only by a licensed physician or licensed addiction counselor"

Page 2, line 19, remove "evaluation of a respondent's physical condition may be made only"

Page 2, remove lines 20 and 21

Page 2, line 22, remove "psychologist; and an", overstrike "examination by a", and remove "licensed physician or"

Page 2, line 23, overstrike "licensed addiction counselor must be limited to" and insert immediately thereafter "evaluation of a respondent's physical condition may be made only by a licensed physician or psychiatrist; an evaluation of a respondent's mental status may be made only by a psychiatrist or psychologist; and an evaluation of"

Page 2, line 24, overstrike "and whether the respondent is a"

Page 2, line 25, overstrike "person requiring treatment" and insert immediately thereafter "may be made only by a licensed physician or licensed addiction counselor"

Page 11, line 20, replace "Unless otherwise" with "After notice and hearing, the court may order a respondent with appointed counsel"

Page 11, remove line 21

Page 16, line 9, overstrike ", before the expiration of the", remove "initial", and overstrike "order,"

Page 16, line 13, after the first "the" insert "initial"

Page 23, line 26, replace "requests" with "waives"

Page 23, line 28, replace "the petition will be ruled upon by the court without" with "a hearing will be held by the court"

Page 23, line 29, remove "further hearing"

Page 24, line 4, replace "a hearing is requested" with "the hearing is not waived"

Renumber accordingly

#### HOUSE AMENDMENTS TO SENATE BILL NO. 2384

Page 1, line 16, after "producer" insert ", the department of human services, job service North Dakota, workers compensation bureau"

Page 6, line 22, replace "an" with "any"

Page 6, line 26, replace "penaly" with "penalty"

Renumber accordingly

#### HOUSE AMENDMENTS TO SENATE BILL NO. 2400

Page 2, remove lines 9 through 11

Page 2, line 12, remove "section."

Renumber accordingly

#### HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2479

Page 3, line 23, after "(2)" insert:

"Upon the request of an insurance company, a nonprofit health service corporation, or a health maintenance organization the North Dakota board of social work examiners shall provide to the requesting entity information to certify that a licensed certified social worker meets the qualifications required under this section.

(3)"

Renumber accordingly

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

MADAM PRESIDENT: The House has concurred in the Senate amendments and subsequently passed: HB 1046, HB 1308, HB 1072, HB 1157 HB 1263.

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

MADAM PRESIDENT: The Speaker has signed and your signature is respectfully requested on: HB 1125, HB 1152, HB 1153, HB 1154, HB 1156, HB 1171, HB 1173, HB 1176, HB 1177, HB 1185, HB 1233, HB 1235, HB 1253, HB 1301, HB 1319, HB 1331.

#### CONSIDERATION OF AMENDMENTS

HB 1181: SEN. GRABA (Human Services Committee) MOVED that the amendments on SJ pages 822-823 be adopted and then be placed on the Fourteenth order with DO PASS, which motion prevailed.

#### CONSIDERATION OF AMENDMENTS

SCR 4020: SEN. SOLBERG (Joint Constitutional Revision Committee) MOVED that the amendments on SJ page 854 be adopted and then be placed on the Eleventh order WITHOUT RECOMMENDATION, which motion prevailed.

## CONSIDERATION OF AMENDMENTS

HB 1104: SEN. SCHERBER (Government and Veterans Affairs Committee) MOVED that the amendments on SJ pages 866-868 be adopted and then be placed on the Fourteenth order with DO PASS, which motion prevailed.

## CONSIDERATION OF AMENDMENTS

HB 1155: SEN. TRAYNOR (Political Subdivisions Committee) MOVED that the amendments on SJ page 855 be adopted and then be placed on the Fourteenth order with DO PASS, which motion prevailed.

## CONSIDERATION OF AMENDMENTS

HB 1168: SEN. MUTCH (Industry, Business and Labor Committee) MOVED that the amendments on SJ pages 868-869 be adopted and then be placed on the Fourteenth order with DO PASS, which motion prevailed.

## CONSIDERATION OF AMENDMENTS

HB 1175: SEN. KELLER (Industry, Business and Labor Committee) MOVED that the amendments on SJ page 839 be adopted and then be placed on the Fourteenth order with DO PASS, which motion prevailed.

## CONSIDERATION OF AMENDMENTS

HB 1216: SEN. GRINDBERG (Transportation Committee) MOVED that the amendments on SJ page 840 be adopted and then be placed on the Fourteenth order with DO PASS, which motion prevailed.

## CONSIDERATION OF AMENDMENTS

HB 1225: SEN. LINDGREN (Human Services Committee) MOVED that the amendments on SJ page 869 be adopted and then be placed on the Fourteenth order with DO PASS, which motion prevailed.

## CONSIDERATION OF AMENDMENTS

HB 1228: SEN. NALEWAJA (Human Services Committee) MOVED that the amendments on SJ page 869 be adopted and then be placed on the Fourteenth order with DO PASS, which motion prevailed.

## CONSIDERATION OF AMENDMENTS

HB 1256: SEN. W. STENEHJEM (Government and Veterans Affairs Committee) MOVED that the amendments on SJ pages 869-871 be adopted and then be placed on the Fourteenth order with DO PASS, which motion prevailed.

## CONSIDERATION OF AMENDMENTS

HB 1264: SEN. SAND (Government and Veterans Affairs Committee) MOVED that the amendments on SJ page 871 be adopted and then be placed on the Fourteenth order with DO PASS, which motion prevailed.

## CONSIDERATION OF AMENDMENTS

HB 1291: SEN. KELSH (Education Committee) MOVED that the amendments on SJ page 840 be adopted and then be placed on the Fourteenth order with DO PASS, which motion prevailed.

## CONSIDERATION OF AMENDMENTS

HB 1302: SEN. TRAYNOR (Political Subdivisions Committee) MOVED that the amendments on SJ page 855 be adopted and then be placed on the Fourteenth order with DO PASS, which motion prevailed.

## CONSIDERATION OF AMENDMENTS

HB 1336: SEN. SCHERBER (Government and Veterans Affairs Committee) MOVED that the amendments on SJ page 871 be adopted and then be placed on the Fourteenth order with DO PASS, which motion prevailed.

## CONSIDERATION OF AMENDMENTS

HB 1345: SEN. MARKS (Judiciary Committee) MOVED that the amendments on SJ page 840 be adopted and then be placed on the Fourteenth order with DO PASS, which motion prevailed.

## CONSIDERATION OF AMENDMENTS

HB 1356: SEN. W. STENEHJEM (Government and Veterans Affairs Committee) MOVED that the amendments on SJ page 871 be adopted and then be placed on the Fourteenth order with DO PASS, which motion prevailed.

## CONSIDERATION OF AMENDMENTS

HB 1360: SEN. GRABA (Political Subdivisions Committee) MOVED that the amendments on SJ page 856 be adopted and then be placed on the Fourteenth order with DO PASS, which motion prevailed.

## CONSIDERATION OF AMENDMENTS

HB 1377: SEN. MATHERN (Natural Resources Committee) MOVED that the amendments on SJ page 856 be adopted and then be placed on the Fourteenth order with DO PASS, which motion prevailed.

## CONSIDERATION OF AMENDMENTS

HB 1405: SEN. KRAUTER (Natural Resources Committee) MOVED that the amendments on SJ pages 840-841 be adopted and then be placed on the Fourteenth order with DO PASS, which motion prevailed.

## CONSIDERATION OF AMENDMENTS

HB 1424: SEN. FREBORG (Education Committee) MOVED that the amendments on SJ page 841 be adopted and then be placed on the Fourteenth order with DO PASS, which motion prevailed.

## CONSIDERATION OF AMENDMENTS

HB 1488: SEN. GRINDBERG (Transportation Committee) MOVED that the amendments on SJ pages 871-872 be adopted and then be placed on the Fourteenth order with DO PASS, which motion prevailed.

## CONSIDERATION OF AMENDMENTS

HB 1495: SEN. MALEWAJA (Natural Resources Committee) MOVED that the amendments on SJ pages 856-857 be adopted and then be placed on the Fourteenth order with DO PASS, which motion prevailed.

## MOTION

SEN. MATHERN MOVED that HB 1103, which is on the Sixth order, be rereferred to the Finance and Taxation Committee, which motion prevailed. Pursuant to Sen. Mathern's motion, HB 1103 was rereferred.

## CONSIDERATION OF AMENDMENTS

HB 1134: SEN. SOLBERG (Agriculture Committee) MOVED that the amendments on SJ page 881 be adopted and then be placed on the Fourteenth order with DO PASS, which motion prevailed.

## MOTION

SEN. MATHERN MOVED that HB 1212, which is on the Sixth order, be laid over one legislative day, which motion prevailed.

## CONSIDERATION OF AMENDMENTS

HB 1222: SEN. SCHOENWALD (Industry, Business and Labor Committee) MOVED that the amendments on SJ pages 882-883 be adopted and then be placed on the Fourteenth order with DO PASS, which motion prevailed.

## CONSIDERATION OF AMENDMENTS

HB 1262: SEN. SCHOENWALD (Industry, Business and Labor Committee) MOVED that the amendments on SJ page 883 be adopted and then be placed on the Fourteenth order with DO NOT PASS, which motion prevailed.

## CONSIDERATION OF AMENDMENTS

HB 1267: SEN. TOMAC (Finance and Taxation Committee) MOVED that the amendments on SJ page 883 be adopted and then be placed on the Fourteenth order with DO NOT PASS, which motion prevailed.

## CONSIDERATION OF AMENDMENTS

HB 1281: SEN. B. STENEHJEM (Human Services Committee) MOVED that the

amendments on SJ pages 883-884 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

#### CONSIDERATION OF AMENDMENTS

**HB 1332: SEN. NALEWAJA (Human Services Committee) MOVED** that the amendments on SJ page 884 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

#### CONSIDERATION OF AMENDMENTS

**HB 1373: SEN. GRABA (Human Services Committee) MOVED** that the amendments on SJ pages 884-885 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

#### CONSIDERATION OF AMENDMENTS

**HB 1464: SEN. MUTCH (Industry, Business and Labor Committee) MOVED** that the amendments on SJ pages 885-886 be adopted and then be placed on the Fourteenth order with **DO NOT PASS**, which motion prevailed.

#### SECOND READING OF HOUSE BILL

**HB 1343: A BILL for an Act relating to the consolidation of maternal and child health programs.**

#### ROLL CALL

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

**YEAS:** Andrist; Bowman; DeMers; Dotzenrod; Freborg; Goetz; Graba; Grindberg; Heinrich; Holmberg; Jerome; Keller; Kelly; Kelsh; Kinnoin; Krauter; Krebsbach; Langley; Lindaas; Lindgren; Lips; Marks; Mathern; Mushik; Mutch; Naaden; Nalewaja; Nelson; Nething; O'Connell; Redlin; Robinson; Sand; Scherber; Schoenwald; Solberg; Stenehjem, B.; Stenehjem, W.; Streibel; Tallackson; Tennefos; Thane; Tomac; Traynor; Urlacher; Wogsland; Yockim

**NAYS:** Evanson

**ABSENT AND NOT VOTING:** Maxson

HB 1343 passed and the title was agreed to.

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#### SECOND READING OF HOUSE BILL

**HB 1355: A BILL for an Act to create and enact a new subsection to section 20.1-03-12 of the North Dakota Century Code, relating to game and fish license fees; and to amend and reenact sections 20.1-03-12.2 and 20.1-08-04.1 of the North Dakota Century Code, relating to hunting license and permit application fees and participation by nonresidents in the bighorn sheep license lottery.**

#### 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 34 YEAS, 13 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bowman; Evanson; Freborg; Goetz; Graba; Heinrich; Holmberg; Jerome; Keller; Kelsh; Kinnoin; Krauter; Krebsbach; Lindaas; Lips; Marks; Mathern; Mushik; Mutch; Naaden; Nalewaja; Nelson; Nething; O'Connell; Redlin; Scherber; Tallackson; Tennefos; Thane; Tomac; Traynor; Urlacher; Yockim

**NAYS:** DeMers; Dotzenrod; Grindberg; Kelly; Langley; Lindgren; Robinson; Sand; Schoenwald; Solberg; Stenehjem, B.; Stenehjem, W.; Streibel

**ABSENT AND NOT VOTING:** Maxson; Wogsland

HB 1355 passed and the title was agreed to.

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**SECOND READING OF HOUSE BILL**

**HB 1359:** A BILL for an Act to amend and reenact sections 43-39-01, 43-39-04, 43-39-05, and subsection 1 of section 43-39-10 of the North Dakota Century Code, relating to regulation of athletic trainers.

**ROLL CALL**

The question being on the final passage of the bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 45 YEAS, 2 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

**YEAS:** Bowman; DeMers; Dotzenrod; Evanson; Freborg; Goetz; Graba; Grindberg; Heinrich; Holmberg; Jerome; Keller; Kelly; Kelsh; Kinnoin; Krauter; Krebsbach; Langley; Lindaas; Lindgren; Lips; Marks; Mathern; Mushik; Mutch; Naaden; Nalewaja; Nelson; Nething; O'Connell; Redlin; Robinson; Sand; Scherber; Schoenwald; Stenehjem, B.; Stenehjem, W.; Streibel; Tallackson; Tennefos; Thane; Tomac; Traynor; Urlacher; Yockim

**NAYS:** Andrist; Solberg

**ABSENT AND NOT VOTING:** Maxson; Wogsland

HB 1359 passed and the title was agreed to.

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**SECOND READING OF HOUSE BILL**

**HB 1370:** A BILL for an Act to create and enact section 11-19.1-07.2 of the North Dakota Century Code, relating to appointment of persons who may make a declaration of death in certain circumstances when the coroner or assistant coroner is unavailable.

**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 15 YEAS, 33 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bowman; Graba; Jerome; Kinnoin; Krauter; Krebsbach; Lindgren; Mathern; Nalewaja; Nelson; O'Connell; Sand; Urlacher; Wogsland

**NAYS:** DeMers; Dotzenrod; Evanson; Freborg; Goetz; Grindberg; Heinrich; Holmberg; Keller; Kelly; Kelsh; Langley; Lindaas; Lips; Marks; Mushik; Mutch; Naaden; Nething; Redlin; Robinson; Scherber; Schoenwald; Solberg; Stenehjem, B.; Stenehjem, W.; Streibel; Tallackson; Tennefos; Thane; Tomac; Traynor; Yockim

**ABSENT AND NOT VOTING:** Maxson

HB 1370 lost.

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**CORRECTION AND REVISION OF THE JOURNAL**

**MADAM PRESIDENT:** Your Committee on Correction and Revision of the Journal (Sen. Yockim, Chairman) has carefully examined the Journal of the Forty-second Day and recommends that it be corrected as follows and when so corrected, recommends that it be approved:

Page 843, line 13, remove "SB 2030," and remove "SB 2115,"

Page 843, line 14, remove "SB 2154," and remove "SB 2185, SB 2186,"

Page 843, line 15, remove "SB 2345,"

Page 843, line 16, remove "SB 2411,"

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

**COMMUNICATION FROM GOVERNOR EDWARD T. SCHAFER**

March 11, 1993

This is to inform you that on March 11, 1993, I signed the following: SB 2299, SB 2346, SB 2372, and SB 2383.

**COMMUNICATION FROM GOVERNOR EDWARD T. SCHAFER**

March 11, 1993

This is to inform you that on March 10, 1993, I signed the following: SB 2067, SB 2069, SB 2070, SB 2072, SB 2099, SB 2100, SB 2102, SB 2103, SB 2119, SB 2129, SB 2137, SB 2138, SB 2139, SB 2156, SB 2162, SB 2168, SB 2173, SB 2178, SB 2183, SB 2188, SB 2202, SB 2203, SB 2232, SB 2247, SB 2281, SB 2311, SB 2342, SB 2380, SB 2386, SB 2399, SB 2489, and SB 2510.

**COMMUNICATION FROM GOVERNOR EDWARD T. SCHAFER**

March 11, 1993

This is to inform you that on March 10, 1993, I signed the following: SB 2041, SB 2062, SB 2147, SB 2180, SB 2190, SB 2191, SB 2193, SB 2209, SB 2220, SB 2261, SB 2262, SB 2280, SB 2329, SB 2382, SB 2413, and SB 2429.

**MOTION**

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

**MOTION**

SEN. MATHERN MOVED that the Senate be on the Fourth, Fifth, Twelfth, Thirteenth, and Sixteenth orders of business and at the conclusion of those orders, the Senate stand adjourned until 12:30 p.m., Friday, March 12, 1993, which motion prevailed.

**REPORT OF STANDING COMMITTEE**

SCR 4011: Joint Constitutional Revision Committee (Sen. O'Connell, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (9 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). SCR 4011 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A concurrent resolution" replace the remainder of the resolution with "to create and enact a new section to article X of the Constitution of North Dakota, relating to deposit of certain oil extraction tax revenues in the common schools trust fund and the foundation aid stabilization fund and providing for use of the principal and income of the foundation aid stabilization fund; and to provide an effective date.

**STATEMENT OF INTENT**

This measure requires a portion of oil extraction tax revenues to be deposited in the common schools trust fund and an equal portion to be deposited in the foundation aid stabilization fund, with income of the foundation aid stabilization fund to be transferred to the state general fund. Beginning July 1, 1995, the amount of extraction tax revenue deposited in the two funds pursuant to this measure would equal twenty percent of the extraction tax revenue from taxable oil produced in the state.

**BE IT RESOLVED BY THE SENATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:**

That the following proposed new section to article X of the Constitution of North Dakota is agreed to and must be submitted to the qualified electors of North Dakota at the general election to be held in 1994, in accordance with section 16 of article IV of the Constitution of North Dakota.

**SECTION 1.** A new section to article X of the Constitution of North Dakota is created and enacted as follows:

Twenty percent of the revenue from oil extraction taxes from taxable oil produced in this state must be allocated as follows:

1. Fifty percent must be deposited in the common schools trust fund.
2. Fifty percent must be deposited in the foundation aid stabilization fund in the state treasury, the interest income of which must be transferred to the state general fund on July first of each year. The principal of the foundation aid stabilization fund may be expended only upon order of the governor, who may direct such a transfer only to offset foundation aid reductions that were made by executive action pursuant to law due to a revenue shortage.

**SECTION 2. EFFECTIVE DATE.** If approved by the electors, this measure is effective for tax revenue from oil and gas produced after June 30, 1995."

ReNUMBER accordingly

**REPORT OF STANDING COMMITTEE**

**SCR 4017: Joint Constitutional Revision Committee (Sen. O'Connell, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 3 NAYS, 1 ABSENT AND NOT VOTING). SCR 4017 was placed on the Sixth order on the calendar.

Page 2, line 1, replace "may authorize" with "shall establish"

Page 2, line 3, replace "Until 2015, the" with "The"

Page 2, line 4, replace "devoted fifty percent to the common schools trust fund" with "deposited in the"

Page 2, remove lines 5 and 6

Page 2, line 7, remove "trust fund and fifty percent to the state" and after "fund" insert "in the state treasury"

ReNUMBER accordingly

**REPORT OF STANDING COMMITTEE**

**HB 1024: Judiciary Committee (Sen. Maxson, Chairman)** recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1024 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1038: Human Services Committee (Sen. Mathern, Chairman)** recommends **DO PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1038 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1111: Judiciary Committee (Sen. Maxson, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 1 NAY,

0 ABSENT AND NOT VOTING). HB 1111 was placed on the Sixth order on the calendar.

Page 1, line 22, remove the second "and"

Page 2, line 6, after the second "Act" insert "; and to provide an effective date"

Page 29, line 25, after "a." insert "The waiver, if given effect, would reduce the assets or income available to the surviving spouse to an amount less than those allowed for persons eligible for a program of public assistance;

b."

Page 29, line 26, replace "b." with "c."

Page 56, remove lines 1 through 7

Page 96, after line 9, insert:

"SECTION 51. EFFECTIVE DATE. This Act becomes effective on August 1, 1995."

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

HB 1219: Transportation Committee (Sen. Schoenwald, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1219 was placed on the Sixth order on the calendar.

Page 1, line 1, after "Act" insert "to create and enact a new paragraph to subdivision a of subsection 3 of section 39-06.1-10 of the North Dakota Century Code, relating to points assigned for failure to yield to a pedestrian; and" and after "39-06.1-10" insert "and paragraphs 16 and 17 of subdivision a of subsection 3 of section 39-06.1-10"

Page 1, line 2, after "fees" insert "and points assigned"

Page 1, after line 14, insert:

"SECTION 2. AMENDMENT. Paragraphs 16 and 17 of subdivision a of subsection 3 of section 39-06.1-10 of the 1991 Supplement to the North Dakota Century Code are amended and reenacted as follows:

- |      |   |          |
|------|---|----------|
| (16) | Failing to yield right of way in violation of section 39-10-20, 39-10-22 through 39-10-26, <del>39-10-28</del> , 39-10-33.3, 39-10-44, or 39-10-72, or equivalent ordinances                              | 2 points |
| (17) | <del>Disobeying</del> <u>Except as provided in section 3 of this Act, disobeying</u> an official traffic-control device in violation of section 39-10-04, 39-10-05, or 39-10-07, or equivalent ordinances | 2 points |

SECTION 3. A new paragraph to subdivision a of subsection 3 of section 39-06.1-10 of the 1991 Supplement to the North Dakota Century Code is created and enacted as follows:

Failing to yield the right of way to a pedestrian in violation of section 39-10-05 or subsection 1 of section 39-10-28, or equivalent ordinances" 4 points

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1237: Judiciary Committee (Sen. Maxson, Chairman) recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1237 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1238: Judiciary Committee (Sen. Maxson, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1238 was placed on the Sixth order on the calendar.

Page 1, line 1, replace "provide for" with "create and enact a new chapter to title 12.1 of the North Dakota Century Code, relating to"

Page 1, line 3, after the first semicolon insert "and" and replace the second semicolon with a period

Page 1, remove line 4

Page 2, line 14, after the period insert "A new chapter to title 12.1 of the North Dakota Century Code is created and enacted as follows:"

Page 2, line 15, after "1." insert ""Disorderly conduct" means intrusive or unwanted acts, words, or gestures that are intended to adversely affect the safety, security, or privacy of another person. Disorderly conduct does not include constitutionally protected activity.

2."

Page 2, line 19, replace "2." with "3."

Page 2, line 25, replace "3." with "4."

Page 3, line 6, replace "4" with "5"

Page 3, line 7, replace "4." with "5."

Page 3, line 10, replace "2" with "3"

Page 3, line 12, replace "3" with "4"

Page 3, line 22, after the underscored period insert "If a person claims to have been engaged in a constitutionally protected activity, the court shall determine the validity of the claim as a matter of law and, if found valid, shall exclude evidence of the activity."

Page 3, line 23, replace "5." with "6."

Page 3, line 28, replace "6." with "7."

Page 4, line 9, replace "7." with "8.", replace "3" with "4", and replace "4" with "5"

Page 4, line 11, replace "2" with "3" and replace "3" with "4"

Page 4, line 15, replace "8." with "9."

Page 4, after line 21, insert:

"10. Notwithstanding subsection 5 of section 11-16-05, a state's attorney may advise and assist any person in the preparation of documents necessary to secure a restraining order under this section."

Page 4, remove lines 22 and 23

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

HB 1239: Judiciary Committee (Sen. Maxson, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (6 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). HB 1239 was placed on the Sixth order on the calendar.

Page 1, line 10, after "magistrate" insert "pursuant to rule 5 of the North Dakota Rules of Criminal Procedure"

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

HB 1247: Political Subdivisions Committee (Sen. Graba, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1247 was placed on the Sixth order on the calendar.

Page 1, line 10, after "statewide" insert "primary or general", after "election" insert ", whichever occurs first, and", and after the underscored period insert "However, if the next primary or general election at which the vacancy could be filled, occurs in the year immediately preceding the expiration of the term, then no election may be held."

Page 2, line 7, after "vacaney" insert "or until the term expires if no election can be held"

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

HB 1280: Judiciary Committee (Sen. Maxson, Chairman) recommends DO NOT PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1280 was placed on the Fourteenth order on the calendar.

#### REPORT OF STANDING COMMITTEE

HB 1286: Judiciary Committee (Sen. Maxson, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1286 was placed on the Sixth order on the calendar.

Page 1, line 1, after "reenact" insert "section 27-05-27 and"

Page 1, after line 3, insert:

"SECTION 1. AMENDMENT. Section 27-05-27 of the North Dakota Century Code is amended and reenacted as follows:

~~27-05-27. Motions before trial judge. Except as provided by subsection 2 of section 29-15-21, any~~ Any motion for a new trial,

settlement of a proposed case, judgment notwithstanding the verdict, or vacation or modification of an order, judgment, or other proceeding, must be presented and heard before the judge before whom the matter was heard, considered, or determined, unless for any reason the judge is unable to act."

Page 1, line 15, overstrike "Any proceeding to modify an order for alimony, property"

Page 1, overstrike lines 16 through 19

Page 1, line 20, overstrike "action does not bar a demand for a change of judge." and remove "A party may"

Page 2, remove lines 1 and 2

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

HB 1306: Judiciary Committee (Sen. Maxson, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1306 was placed on the Sixth order on the calendar.

Page 1, line 1, replace "section" with "sections 14-03-17 and"

Page 1, after line 3, insert:

"SECTION 1. AMENDMENT. Section 14-03-17 of the North Dakota Century Code is amended and reenacted as follows:

#### 14-03-17. Application for license.

1. When application is made to any county judge of this state for a marriage license, the judge shall inquire of the applicant upon oath relative to the legality of the contemplated marriage. The judge may examine other witnesses upon oath. The facts relative to the legality of the marriage may be submitted to the county judge by affidavit. The county judge also shall require each applicant to submit the following facts upon blanks provided by the county, together with documentary evidence of age:
  - ~~1-~~ a. An affidavit by each of the applicants showing that each is over the age of eighteen years. In addition, each applicant shall exhibit to the county judge a birth certificate or other satisfactory evidence of age. If either applicant is under the age of eighteen years, the county judge shall require the written consent under oath of:
    - ~~a-~~ (1) Either parent of the minor applicant, if the parents are living together;
    - ~~b-~~ (2) The parent having the legal custody of the minor applicant, if the parents are not living together;
    - ~~c-~~ (3) The surviving parent, if one of the parents of the minor applicant is deceased; or
    - ~~d-~~ (4) The guardian, or person under whose care and government the minor applicant is, if both parents of the minor applicant are deceased, or if a person other than a parent has legal and actual custody of the minor applicant.

- 2- b. An affidavit showing whether or not either or both of the parties have been divorced. If a decree of divorce has been granted to either or both of the parties, a certified copy of the decree must be filed with the application. A license shall not be issued if it contravenes any provisions of the decree of divorce.
2. All affidavits shall be subscribed and sworn to before a person authorized to administer oaths. The county judge shall retain on file in the judge's office all papers and records pertaining to all marriage licenses. Anyone knowingly swearing falsely to the statements contained in any affidavit mentioned in this section shall be punished as provided in section 14-03-28.
3. Each application for a marriage license must also contain a statement to the following effect:

NOTICE TO APPLICANTS

- a. Every person has the right to adopt any surname by which that person wishes to be known by using that surname consistently and without intent to defraud.
- b. A person's surname does not automatically change upon marriage. Neither party to the marriage must change the party's surname. Parties to a marriage need not have the same surname.
- c. One party or both parties to a marriage may elect to change the surname by which that party wishes to be known after the solemnization of the marriage by entering the new surname in the space below. The entry must consist of one of the following surnames:
- (1) The surname of the other spouse;
  - (2) Any former surname of either spouse;
  - (3) A name combining into a single surname all or a segment of the premarriage surname or any former surname of either spouse; or
  - (4) A combination name separated by a hyphen, provided that each part of the combination surname is the premarriage surname or a former surname of either spouse.
- d. Use of the option under subdivision c has the effect of providing a record of the surname change. The marriage certificate containing the new surname, if any, constitutes proof that the use of the new surname, or the retention of the former surname, is lawful.
- e. Neither the use of nor the failure to use the option of selecting a new surname by means of this application, as provided in subdivision c, abrogates the right of either party to adopt a different surname through usage at a future date.

(Optional -- Enter new surname above)"

## REPORT OF STANDING COMMITTEE

HB 1337: Judiciary Committee (Sen. Maxson, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1337 was placed on the Sixth order on the calendar.

Page 6, line 21, replace "twenty-one" with "thirty-one"

Renumber accordingly

## REPORT OF STANDING COMMITTEE

HB 1417: Judiciary Committee (Sen. Maxson, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1417 was placed on the Sixth order on the calendar.

Page 1, line 15, replace "executive from" with "execution of"

Page 4, line 11, replace "bulletin board" with "space", after "to" insert "the", replace "for" with "in", and replace "convenience of defendants" with "booking area"

Page 4, line 12, remove "exclusively" and remove "and public"

Page 4, line 13, remove "defender's telephone numbers"

Renumber accordingly

## REPORT OF STANDING COMMITTEE

HB 1453: Judiciary Committee (Sen. Maxson, Chairman) recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1453 was placed on the Fourteenth order on the calendar.

## REPORT OF STANDING COMMITTEE

HB 1456: Human Services Committee (Sen. Mathern, Chairman) recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1456 was placed on the Fourteenth order on the calendar.

## REPORT OF STANDING COMMITTEE

HB 1462: Judiciary Committee (Sen. Maxson, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (6 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). HB 1462 was placed on the Sixth order on the calendar.

Page 1, line 8, overstrike "and great grandparents"

Page 1, line 9, after "rights" insert "and the great grandparents may be granted reasonable visitation rights"

Page 1, line 13, remove "and"

Page 1, line 14, remove "great grandparents"

Page 1, line 20, remove the overstrike over "~~are automatically~~" and remove "may"

Page 1, line 21, remove "be" and remove "if termination of the rights is in the best"

Page 2, line 1, remove "interest of the minor"

Renumber accordingly

## REPORT OF STANDING COMMITTEE

HB 1479: Judiciary Committee (Sen. Maxson, Chairman) recommends AMENDMENTS

AS FOLLOWS and when so amended, recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1479 was placed on the Sixth order on the calendar.

Page 1, line 18, replace the first "or" with a comma, after "officer" insert ", or any other person into whose possession the photograph or other visual representation may come when that person is", and replace "the medical professional's or" with "that person's"

Page 1, line 19, remove "peace officer's"

Re-number accordingly

#### REPORT OF STANDING COMMITTEE

**HB 1484: Judiciary Committee (Sen. Maxson, Chairman)** recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1484 was placed on the Sixth order on the calendar.

Page 3, line 1, replace "defendant" with "convicted felon"

Re-number accordingly

#### REPORT OF STANDING COMMITTEE

**HB 1508: Judiciary Committee (Sen. Maxson, Chairman)** recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1508 was placed on the Fourteenth order on the calendar.

#### REPORT OF STANDING COMMITTEE

**HCR 3003: Education Committee (Sen. Heinrich, Chairman)** recommends DO PASS and BE PLACED ON THE CONSENT CALENDAR (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HCR 3003 was placed on the Tenth order on the calendar.

#### REPORT OF STANDING COMMITTEE

**HCR 3013: Education Committee (Sen. Heinrich, Chairman)** recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HCR 3013 was placed on the Sixth order on the calendar.

Page 1, line 3, replace "other than" with "including"

Page 1, line 13, replace "but are found neither in this state's" with "as established by the Department of Public Instruction"

Page 1, line 14, remove "constitution nor statutes"

Page 1, line 18, replace "other than" with "including"

Re-number accordingly

#### REPORT OF STANDING COMMITTEE

**HCR 3044: Education Committee (Sen. Heinrich, Chairman)** recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (6 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). HCR 3044 was placed on the Sixth order on the calendar.

Page 1, line 2, replace "state" with "legislative assembly" and after "salaries" insert "and benefits"

Page 1, line 3, after "salaries" insert "and benefits"

Page 1, line 6, after "salaries" insert "and benefits"

Page 1, line 10, after "salaries" insert "and benefits"

Page 1, line 17, replace "state" with "legislative assembly"

Page 1, line 18, after "salaries" insert "and benefits"

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**HCR 3057: Judiciary Committee (Sen. Maxson, Chairman) recommends DO PASS and BE PLACED ON THE CONSENT CALENDAR (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HCR 3057 was placed on the Tenth order on the calendar.**

**REPORT OF STANDING COMMITTEE**

**HCR 3068: Education Committee (Sen. Heinrich, Chairman) recommends DO PASS and BE PLACED ON THE CONSENT CALENDAR (6 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). HCR 3068 was placed on the Tenth order on the calendar.**

**REPORT OF STANDING COMMITTEE**

**HCR 3069: Judiciary Committee (Sen. Maxson, Chairman) recommends DO PASS and BE PLACED ON THE CONSENT CALENDAR (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HCR 3069 was placed on the Tenth order on the calendar.**

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

**CAROL SIEGERT, Secretary**