

JOURNAL OF THE SENATE

Fifty-third Legislative Assembly

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Bismarck, March 18, 1993

The Senate convened at 8:00 a.m., with President Myrdal presiding.

The prayer was offered by Rev. Ray Martin, First United Methodist Church, Mandan.

The roll was called and all members were present except Senators Dotzenrod, Tennefos, and Tomac.

A quorum was declared by the President.

POINT OF PERSONAL PRIVILEGE

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

Madam President, Ladies and Gentlemen of the Senate, the Sixth order contains a number of contested amendments and it is extremely troublesome to me to be asked not to be present to vote on those amendments, or more importantly to hear the debate on them. I sincerely object to the practice of moving members away from this floor for committee work when there are contested amendments. Thank you.

REQUEST

SEN. MATHERN REQUESTED that the remarks of Senator Wogsland be printed in the Journal, which request was granted.

SEN. WOGSLAND: Thank you, Madam President, and to the Senator who just had the remarks printed in the Journal. What we have done, and what has been our practice, is that any contested amendments that have been on the floor -- and we had one yesterday, for example -- we simply put it to the bottom so that we can sit down and work with it. I think that we have worked well with the Minority Leader, to sit down and talk about anything that would be contested, that would be a problem. If the Senator has a problem with one of the amendments, he can certainly contact him, he can contact myself, or he can contact the Assistant Majority Leader. We will certainly accommodate any of the Senators that have a problem with the amendments, and allow them to hear the debate, and to vote on those. That has been the practice. It is our intent to do that. It is not our intent to circumvent anyone from allowing them to vote. We do have a number of amendments that are uncontested. I think it is reasonable that we get the business of the Senate done. If there is something that troubles any of the 49 Senators, I would hope that you would talk to your leadership. We will move those, we will accommodate the Senate as best we can, so that we can get the business of the Senate done. What I certainly do not want is to have anyone not have an opportunity to debate something; and, if that opportunity has not been afforded, we will allow it to come back, if that is the wish, or we will certainly debate the issue, or else put the issue so that everyone can be present. I think that is reasonable and I think that is fair.

MOTION

SEN. MATHERN MOVED that the Senate stand in recess until 10:00 a.m., which motion prevailed.

THE SENATE RECONVENED pursuant to recess taken, with President Myrdal presiding.

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

MR. SPEAKER: The Senate does not concur in the House amendments to SB 2088, SB 2108, SB 2120, SB 2174, SB 2293, and SB 2359 and the President has appointed as a conference committee to act with a like committee from the House on:

SB 2088: Sens. Marks; Kinnoin; Freborg
 SB 2108: Sens. Schoenwald; Keller; Mutch
 SB 2120: Sens. Tomac; Kinnoin; Tennefos
 SB 2174: Sens. O'Connell; Schoenwald; Tennefos
 SB 2293: Sens. Dotzenrod; Tomac; Tennefos
 SB 2359: Sens. Jerome; Graba; Nalewaja

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

MR. SPEAKER: The Senate does not concur in the House amendments to SB 2028, SB 2048, SB 2082, SB 2095, SB 2131, SB 2379, and SB 2468 and the President has appointed as a conference committee to act with a like committee from the House on:

SB 2028: Sens. Graba; Jerome; Nalewaja
 SB 2048: Sens. Jerome; Graba; Bowman
 SB 2082: Sens. Krauter; Keller; Mutch
 SB 2095: Sens. Schoenwald; Keller; Krebsbach
 SB 2131: Sens. O'Connell; Schoenwald; B. Stenehjem
 SB 2379: Sens. Scherber; O'Connell; Grindberg
 SB 2468: Sens. Tomac; Kinnoin; Tennefos

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

MR. SPEAKER: The Senate does not concur in the House amendments to SB 2022, SB 2027, SB 2042, SB 2051, SB 2083, SB 2144, and SB 2327 and the President has appointed as a conference committee to act with a like committee from the House on:

SB 2022: Sens. Redlin; Lindaas; Holmberg
 SB 2027: Sens. Graba; Mathern; B. Stenehjem
 SB 2042: Sens. Maxson; Traynor; W. Stenehjem
 SB 2051: Sens. Tomac; Kinnoin; Tennefos
 SB 2083: Sens. Keller; Krauter; Krebsbach
 SB 2144: Sens. Maxson; W. Stenehjem; Andrist
 SB 2327: Sens. Jerome; Lindgren; Andrist

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

MR. SPEAKER: The President has appointed as a conference committee to act with a like committee from the House on:

HB 1089: Sens. O'Connell; Kelsh; Freborg
 HB 1096: Sens. Mathern; Graba; Bowman
 HB 1188: Sens. Dotzenrod; Lindgren; Traynor
 HB 1300: Sens. Heinrich; Scherber; Evanson
 HB 1344: Sens. Graba; Jerome; Nalewaja

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

MADAM PRESIDENT: The House has amended and subsequently passed: SB 2004, SB 2016, SB 2060, SB 2074, SB 2096, SB 2227, SB 2255, SB 2265, SB 2279, SB 2287, SB 2306, SB 2394, SB 2486.

HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2004

Page 1, line 11, replace "2,164,431" with "2,139,959"
 Page 1, line 16, replace "5,447,381" with "5,422,909"
 Page 1, line 17, replace "5,039,771" with "5,021,662"
 Page 1, line 18, replace "407,610" with "401,247"

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

DEPARTMENT 627 - TRANSPORTATION INSTITUTE

HOUSE - The salaries and wages line item is decreased by \$24,472, \$6,363 of which is from the general fund, to reflect Governor Schafer's salary increase recommendation for state employees.

HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2016

Page 1, line 2, remove "; and to provide an appropriation"

Page 1, line 3, remove "to the legislative council"

Page 1, line 12, replace "125,565" with "122,817"

Page 1, line 13, replace "3,003" with "2,703"

Page 1, line 16, replace "1,137,918" with "1,134,870"

Page 1, line 18, replace "700,918" with "697,870"

Page 2, line 28, after "than" insert "a total of"

Page 3, remove lines 7 through 12

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

DEPARTMENT 160 - LEGISLATIVE COUNCIL

HOUSE - This amendment removes the \$125,000 appropriation, \$100,000 of which is from the general fund, for hiring a consultant to assist with a Legislative Council interim study of children and youth services in the state.

DEPARTMENT 324 - CHILDREN'S SERVICES COORDINATING COMMITTEE

HOUSE - This amendment makes the following changes:

- The salaries and wages line item is reduced by \$2,748 from the general fund to reflect Governor Schafer's salary increase recommendation for state employees.
- The information services line item is reduced by \$300 from the general fund to reflect a 10 percent reduction in information services costs.

HOUSE AMENDMENTS TO SENATE BILL NO. 2060

Page 1, line 16, replace "the date of the tax sale to which the tax sale" with "before January first of the year following the year for which the taxes were levied and to which the tax sale certificate issued or deemed to have been issued"

Page 1, line 17, remove "certificate"

Page 2, line 1, replace the second "the" with "before January first of the year following the year for which the taxes were levied and to which the tax sale certificate issued or deemed to have been issued"

Page 2, line 2, remove "date of the tax sale to which the tax sale certificate"

Renumber accordingly

HOUSE AMENDMENTS TO SENATE BILL NO. 2074

Page 2, line 8, after the period insert "Upon request, the board shall grant inactive status to a licensee who does not practice embalming or funeral service, does not hold oneself out as practicing embalming or funeral service, and maintains any continuing competency requirements established by the board."

Page 2, line 16, after "establishment" insert ", except one", remove the overstrike over "~~used only for layouts or funerals~~", and insert an underscored comma after "funerals"

Page 3, line 17, after the underscored period insert "The board may establish special continuing education requirements for a licensee to convert from inactive to active status."

Renumber accordingly

HOUSE AMENDMENTS TO SENATE BILL NO. 2096

Page 1, line 10, after "employees" insert ", other than undocumented cash."

Renumber accordingly

HOUSE AMENDMENTS TO SENATE BILL NO. 2227

Page 3, line 22, after "address" insert "where appropriate"

Page 5, line 4, after "be" insert "adequately"

Page 5, line 11, replace "concerning" with "connection with"

Page 5, after line 15, insert:

"6. A banking institution may utilize personnel and facilities of other affiliates and other affiliates may utilize personnel and facilities of the banking institution."

Page 5, line 27, replace "A" with "Solely for the purpose of examination by the commissioner, a"

Page 6, line 19, after "obtained" insert "consistent with the requirements of the governing instrument or law"

Page 6, line 28, remove "might"

Page 6, line 29, replace "affect" with "affects" and replace "bank" with "banking institution"

Page 7, line 2, replace "bank" with "banking institution"

Page 7, line 6, replace "bank" with "banking institution"

Page 7, line 9, replace "might affect" with "affects"

Page 7, line 12, after "employees" insert "except:"

a. As authorized by the instrument creating the relationship or as authorized by law;

b. When the banking institution has been advised in writing by its counsel or auditor that it has incurred as a fiduciary a contingent or potential liability and desires to relieve itself of that liability, a sale or transfer may be made with the approval of the board of directors, provided that the banking institution, upon consummation of the sale or transfer, makes reimbursement in cash at no loss to the account;

- c. To purchase at market value, defaulted investment funds;
or
- d. Where ordered by the board"

Page 7, line 14, replace "bank" with "banking institution"

Page 7, line 16, after the underscored period insert "If the retention of stock or obligations of the banking institution or its affiliates is authorized by the instrument creating the relationship, by court order, or by law it may exercise rights to purchase its own stock or securities convertible into its own stock when offered pro rata to stockholders. When the exercise of rights or receipt of a stock dividend results in fractional share holdings, additional fractional shares may be purchased to complement the fractional shares so acquired."

Page 7, line 17, remove "not" and remove "or make a loan"

Page 7, line 19, remove "not" and after "accounts" insert "and if the transaction is not prohibited by the terms of any governing instrument"

Page 7, after line 19, insert:

"5. A banking institution may make a loan to an account from the funds belonging to another account when the making of a loan to a designated account is authorized by the instrument creating the account from which the loan is made.

6. A banking institution may make a loan to an account and may take as security for the loan, assets of the account provided the transaction is fair to the account."

Page 7, line 26, after the underscored period insert "The banking institution may permit the investments of a fiduciary account to be deposited elsewhere."

Page 7, line 27, replace "The" with "Except for commingled investments, the"

Renumber accordingly

HOUSE AMENDMENTS TO SENATE BILL NO. 2255

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact sections 39-04-14 and 39-04-14.1 of the North Dakota Century Code, relating to renewal of motor vehicle registrations.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-04-14 of the North Dakota Century Code is amended and reenacted as follows:

39-04-14. Renewal of registration. Every vehicle registration, except those described in section 39-04-14.1, under this chapter expires on December thirty-first each year and must be renewed annually upon application by the owner and by payment of the fees required by law, such renewal to take effect on the first day of January each year. An owner who has made proper application for renewal of registration of a vehicle previous to January first but who has not received the number plates, plate, or registration card for the ensuing year is entitled to operate or permit the operation of such vehicle upon the highways upon displaying thereon the number plates or plate issued for the preceding year for such time, to be prescribed by the department, as may be required for the issuance of ~~such~~ the new plates. If a previously

registered motor vehicle whose gross weight exceeds ten thousand pounds [4535.92 kilograms] is purchased during the period the vehicle's registration in this state is expired, the registration fee must be prorated on a monthly basis from the date of purchase to January first.

SECTION 2. AMENDMENT. Section 39-04-14.1 of the North Dakota Century Code is amended and reenacted as follows:

39-04-14.1. Renewal of registration of motor vehicles under certain weight. Except as otherwise provided in this section, the registration of a motor vehicle whose gross weight does not exceed ten thousand pounds [4535.92 kilograms] expires on the last day of the month which is the anniversary of the month it was originally registered. The registration may be renewed annually on application by the owner and payment of fees required by law. The renewal takes effect on the first day of the first month of the registration period. An owner of more than one vehicle qualifying for staggered registration under this section may renew all of the owner's vehicles in the same month. The registrar shall prorate the registration fees accordingly. If a previously registered motor vehicle whose gross weight does not exceed ten thousand pounds [4535.92 kilograms] is purchased during the period the vehicle's registration in this state is expired, the department shall collect the annual registration fee under section 39-04-19 and shall issue registration that expires on the last day of the month that is the anniversary of the month the vehicle was purchased."

ReNUMBER accordingly

HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2265

Page 1, line 1, after the third comma insert "5-02-05.1,"

Page 1, line 3, replace "sections" with "section"

Page 1, line 4, remove "5-02-05.1 and"

Page 1, line 10, overstrike "an"

Page 1, line 11, after "~~off-sale~~" insert "a qualified"

Page 1, line 12, after the period insert "For purposes of this section, "qualified alcoholic beverage licensee" means a licensee in a city that imposed a city lodging and restaurant tax on July 31, 1993, who paid such tax and who continues to pay any such tax imposed by the city or a licensee in a county or a licensee in a city that did not impose a city lodging and restaurant tax on July 31, 1993."

Page 2, line 25, replace "p.m." with "noon"

Page 3, after line 2, insert:

"SECTION 4. AMENDMENT. Section 5-02-05.1 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

5-02-05.1. ~~Special~~ Sunday alcoholic beverage permit - Penalty.

1. Any city or county may issue a ~~special~~ Sunday alcoholic beverage permit to a ~~private club, lodge, restaurant, motel, or hotel licensed as a retail~~ qualified alcoholic beverage establishment licensee licensed under this chapter 5-02; or to a publicly owned or operated facility. For purposes of this section, "qualified alcoholic beverage licensee" has the same meaning as in section 5-02-01.1. A county may not issue a permit under this section to a ~~private club, lodge,~~

~~restaurant, motel, or hotel~~ retail alcoholic beverage establishment located within the geographical boundaries of a city.

2. The authority for issuing ~~such special~~ the permit rests solely with the governing body of the city or county. A ~~special~~ permit may be granted only upon proper application to and approval by the governing body, and must include payment of a fee determined by the governing body. A ~~special~~ permit granted by the city or county may be effective for more than one Sunday.
3. Under the ~~special~~ permit, alcoholic beverages may be distributed and dancing may be permitted in the ~~private club, lodge, restaurant, motel, hotel,~~ establishment or ~~publicly owned or operated~~ facility. A city or county may permit dancing and the distribution of alcoholic beverages between the hours of twelve noon on the ~~specified~~ Sunday and one a.m. on Monday. The general public may be permitted to participate in the consumption of alcoholic beverages distributed under the authority of the ~~special~~ permit. The ~~private club, lodge, restaurant, motel, hotel,~~ establishment or ~~publicly owned or operated~~ facility granted the ~~special~~ permit shall enforce the requirements of this section.
4. Any person who dispenses, sells, or permits the consumption of alcoholic beverages in violation of this section, or who furnishes information required by this section which is false or misleading, is guilty of a class A misdemeanor.
5. ~~For purposes of this chapter, unless the context otherwise indicates, "restaurant" means a commercial establishment that is licensed to engage in the sale of alcoholic beverages at retail pursuant to this chapter, and which has a city, county, or state restaurant license and has paid the appropriate city food and lodging taxes for a continuous six-month period before the application for the permit, or which derives fifty percent or more of its annual gross receipts from the sale of prepared meals and not alcoholic beverages."~~

Page 5, line 12, remove the overstrike over "~~sections~~", remove "section", after the first overstruck comma insert "and", and remove the overstrike over "~~5-02-05.1~~"

Page 5, line 17, replace "Sections 5-02-05.1 and" with "Section"

Page 5, line 18, replace "are" with "is"

Renumber accordingly

HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2279

Page 2, line 29, remove the overstrike over "~~the cost of the project exceeded~~"

Page 3, line 1, remove the overstrike over "~~sixty five thousand dollars or~~"

Renumber accordingly

HOUSE AMENDMENTS TO SENATE BILL NO. 2287

Page 1, line 15, after the underscored period insert "The average annual cost of this publication for cities having a prior history of such publication may be printed on the ballot. For cities not having a prior history of such publication, the estimated average annual cost of

such publication, as mutually determined by the city and its official newspaper, may be printed on the ballot."

Page 2, line 7, after the underscored period insert "The average annual cost of this publication for cities having a prior history of such publication may be printed on the ballot. For cities not having a prior history of such publication, the estimated average annual cost of such publication, as mutually determined by the city and its official newspaper, may be printed on the ballot."

Page 2, line 24, after the underscored period insert "The average annual cost of this publication for cities having a prior history of such publication may be printed on the ballot. For cities not having a prior history of such publication, the estimated average annual cost of such publication, as mutually determined by the city and its official newspaper, may be printed on the ballot."

Page 3, line 10, after the underscored period insert "The average annual cost of this publication for cities having a prior history of such publication may be printed on the ballot. For cities not having a prior history of such publication, the estimated average annual cost of such publication, as mutually determined by the city and its official newspaper, may be printed on the ballot."

Re-number accordingly

HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2306

Page 2, line 2, after "protection" insert "provided the party has submitted a verified application for the order that is sufficient to meet the criteria defined in subsection 2 of section 14-07.1-01"

Re-number accordingly

HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2394

Page 3, line 12, replace "have an incurable or irreversible condition caused" with "am in a terminal condition that is an incurable or irreversible condition which, without the administration of life-prolonging treatment, will result in my imminent death"

Page 3, line 13, remove "by injury, disease, or illness"

Page 3, line 25, replace "have an incurable or irreversible condition caused" with "am in a terminal condition that is an incurable or irreversible condition which, without the administration of life-prolonging treatment, will result in my imminent death"

Page 3, line 26, remove "by injury, disease, or illness"

Page 4, replace lines 3 through 17 with:

"b. I have made the following decision concerning the administration of nutrition when my death is imminent (initial only one statement):

(1) [] I wish to receive nutrition.

(2) [] I wish to receive nutrition unless I cannot physically assimilate nutrition, that nutrition would be physically harmful or cause unreasonable physical pain, or that nutrition would only prolong the process of my dying.

(3) [] I do not wish to receive nutrition.

(4) [] I make no statement concerning the administration of nutrition.

c. I have made the following decision concerning the administration of hydration when my death is imminent (initial only one statement):

(1) [] I wish to receive hydration.

(2) [] I wish to receive hydration unless I cannot physically assimilate hydration, that hydration would be physically harmful or cause unreasonable physical pain, or that hydration would only prolong the process of my dying.

(3) [] I do not wish to receive hydration.

(4) [] I make no statement concerning the administration of hydration."

Page 4, line 18, replace "c." with "d."

Page 4, line 19, remove the underscored colon

Page 4, line 20, replace "(1) If" with "if"

Page 4, line 24, replace "unreasonably" with "cause unreasonable physical pain"

Page 4, line 25, remove "painful"

Page 4, remove lines 27 through 29

Page 5, remove lines 1 and 2

Page 5, line 3, replace "d." with "e."

Page 5, line 6, replace "e." with "f."

Page 5, line 10, replace "f." with "g."

Page 7, line 19, remove "The declaration must"

Page 7, remove lines 20 through 24

Page 8, line 2, replace "unreasonably painful" with "cause unreasonable physical pain"

Renumber accordingly

HOUSE AMENDMENTS TO SENATE BILL NO. 2486

Page 1, line 3, after "industries" insert "; to provide a statement of legislative intent; and to provide an effective date"

Page 2, line 2, remove the overstrike over "~~Except as provided in~~"

Page 2, remove the overstrike over line 3

Page 2, line 4, remove the overstrike over "~~prison industry products to wholesale~~" and remove the overstrike over "~~outlets.~~"

Page 2, line 20, remove the overstrike over the overstruck period, after "All" insert "Roughrider industries may sell all", and remove the overstrike over "~~other prison-made hardwood, fiberesin, upholstered,~~"

Page 2, line 21, remove the overstrike over "~~and metal art work products~~", remove the overstrike over "~~only~~", after "~~through~~" insert "to", and remove the overstrike over "~~wholesale~~"

Page 2, line 22, remove the overstrike over "~~outlets that possess a valid sales tax permit~~"

Page 3, after line 8, insert:

"SECTION 2. LEGISLATIVE INTENT. It is the intent of the legislative assembly that roughrider industries pursue joint ventures with the private sector. It is also the intent of the legislative assembly that roughrider industries' participation in the private sector prison industry enhancement certification program should be through utilization of the employer model component of the program as described by the American correctional association.

SECTION 3. EFFECTIVE DATE. This Act becomes effective on August 1, 1995."

Renumber accordingly

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

MADAM PRESIDENT: The House has amended and subsequently failed to pass: SB 2254, SB 2264, SB 2374.

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

MADAM PRESIDENT: The House has amended, subsequently passed, and the emergency clause carried: SB 2397.

HOUSE AMENDMENTS TO SENATE BILL NO. 2397

Page 1, line 2, remove "49-18-40,"

Page 1, line 3, after the semicolon insert "to repeal section 49-18-40 of the North Dakota Century Code, relating to the transfer of commercial freighting truck license tags;"

Page 3, line 22, overstrike "Miscellaneous"

Page 3, line 23, overstrike "nonrefundable fees", remove "are", and overstrike "as follows:"

Page 3, line 24, overstrike "1. Application" and insert immediately thereafter "The nonrefundable fee for an application", after "of" insert "a", and remove "\$150.00"

Page 3, line 26, overstrike "2.", remove "Request", overstrike "for", and remove "100.00"

Page 3, line 29, remove "temporary authority"

Page 4, line 7, after "~~thereof~~" insert "is one hundred dollars."

Page 4, remove lines 8 through 21

Page 5, line 11, overstrike "tag attached to" and insert immediately thereafter "certificate in"

Page 5, after line 23, insert:

"SECTION 6. REPEAL. Section 49-18-40 of the North Dakota Century Code is repealed."

Renumber accordingly

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

MADAM PRESIDENT: The House has failed to pass: SB 2304.

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

MADAM PRESIDENT: The Speaker has signed: SB 2436.

MOTION

SEN. MATHERN MOVED that HB 1019, HB 1138, HB 1163, HB 1165, HB 1179, HB 1180, HB 1349, HB 1374, and HB 1394 be placed at the top of the Sixth order, which motion prevailed.

MOTION

SEN. MATHERN MOVED that HB 1064 be rereferred to the Human Services Committee, which motion prevailed. Pursuant to Sen. Mathern's motion, HB 1064 was rereferred.

CONSIDERATION OF AMENDMENTS

HB 1019: SEN. YOCKIM (Appropriations Committee) MOVED that the amendments on SJ pages 954-956 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

CONSIDERATION OF AMENDMENTS

HB 1180: SEN. KELLER (Natural Resources Committee) MOVED that the amendments on SJ pages 962-963 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

CONSIDERATION OF AMENDMENTS

HB 1138: SEN. STREIBEL (Industry, Business and Labor Committee) MOVED that the amendments on SJ pages 1017-1018 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

CONSIDERATION OF AMENDMENTS

HB 1163: SEN. MUTCH (Industry, Business and Labor Committee) MOVED that the amendments on SJ page 1018 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

CONSIDERATION OF AMENDMENTS

HB 1165: SEN. SCHOENWALD (Industry, Business and Labor Committee) MOVED that the amendments on SJ pages 1018-1019 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

CONSIDERATION OF AMENDMENTS

HB 1179: SEN. GRABA (Human Services Committee) MOVED that the amendments on SJ page 1019 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

MOTION

SEN. MATHERN MOVED that HB 1179 be rereferred to the Appropriations Committee, which motion prevailed. Pursuant to Sen. Mathern's motion, HB 1179 was rereferred.

CONSIDERATION OF AMENDMENTS

HB 1349: SEN. LINDGREN (Human Services Committee) MOVED that the amendments on SJ page 1020 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

CONSIDERATION OF AMENDMENTS

HB 1374: SEN. MARKS (Agriculture Committee) MOVED that the amendments on SJ pages 1021-1022 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

CONSIDERATION OF AMENDMENTS

HB 1394: SEN. MALEWAJA (Human Services Committee) MOVED that the amendments on SJ page 1022 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

APPOINTMENT OF CONFERENCE COMMITTEE

SEN. MATHERN MOVED that the President appoint a committee of three to act with a like committee from the House as a Conference Committee on HB 1225, which motion prevailed.

THE PRESIDENT APPOINTED as a Conference Committee on HB 1225: Sens. Graba, Lindgren, Nalewaja.

APPOINTMENT OF CONFERENCE COMMITTEE

SEN. MATHERN MOVED that the President appoint a committee of three to act with a like committee from the House as a Conference Committee on HB 1181, which motion prevailed.

THE PRESIDENT APPOINTED as a Conference Committee on HB 1181: Sens. Jerome, Lindgren, B. Stenehjem.

APPOINTMENT OF CONFERENCE COMMITTEE

SEN. TOMAC MOVED that the President appoint a committee of three to act with a like committee from the House as a Conference Committee on HB 1256, which motion prevailed.

THE PRESIDENT APPOINTED as a Conference Committee on HB 1256: Sens. Tomac, Scherber, W. Stenehjem.

APPOINTMENT OF CONFERENCE COMMITTEE

SEN. GRABA MOVED that the President appoint a committee of three to act with a like committee from the House as a Conference Committee on HB 1155, which motion prevailed.

THE PRESIDENT APPOINTED as a Conference Committee on HB 1155: Sens. Graba, Jerome, Traynor.

CONSIDERATION OF MESSAGE FROM THE HOUSE

SEN. MAXSON MOVED that the Senate do not concur in the House amendments to Engrossed SB 2524 as printed on SJ page 991 and that a conference committee be appointed to meet with a like committee from the House, which motion prevailed.

APPOINTMENT OF CONFERENCE COMMITTEE

THE PRESIDENT APPOINTED as a Conference Committee on SB 2524: Sens. Maxson, Traynor, W. Stenehjem.

CONSIDERATION OF MESSAGE FROM THE HOUSE

SEN. GRABA MOVED that the Senate do not concur in the House amendments to Engrossed SB 2097 as printed on SJ pages 991-992 and that a conference committee be appointed to meet with a like committee from the House, which motion prevailed.

APPOINTMENT OF CONFERENCE COMMITTEE

THE PRESIDENT APPOINTED as a Conference Committee on SB 2097: Sens. Graba, Maxson, Andrist.

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

MR. SPEAKER: The President has appointed as a conference committee to act with a like committee from the House on:

HB 1155: Sens. Graba; Jerome; Traynor
HB 1181: Sens. Jerome; Lindgren; B. Stenehjem
HB 1225: Sens. Graba; Lindgren; Nalewaja
HB 1256: Sens. Tomac; Scherber; W. Stenehjem

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

MR. SPEAKER: The Senate does not concur in the House amendments to SB 2097 and SB 2524 and the President has appointed as a conference committee to act with a like committee from the House on:

SB 2097: Sens. Graba; Maxson; Andrist
SB 2524: Sens. Maxson; Traynor; W. Stenehjem

MOTION

SEN. MATHERN MOVED that the Senate stand in recess until 1:00 p.m., which motion prevailed.

THE SENATE RECONVENED pursuant to recess taken, with President Myrdal presiding.

DELIVERY OF ENROLLED BILLS AND RESOLUTIONS

The following bills were delivered to the Governor for his approval at the hour of 10:37 a.m., March 18, 1993: SB 2073, SB 2436.

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

MR. SPEAKER: The Senate has amended and subsequently passed: HB 1111, HB 1212, HB 1217, HB 1219, HB 1238, HB 1239, HB 1247, HB 1286, HB 1304, HB 1306, HB 1335, HB 1337, HB 1377, HB 1405, HB 1417, HB 1424, HB 1438, HB 1462, HB 1479, HB 1484, HB 1495, HCR 3013, HCR 3044.

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

MR. SPEAKER: The Senate has amended, subsequently passed, and the emergency clause carried: HB 1323, HB 1488.

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

MR. SPEAKER: The Senate has failed to pass: HB 1118, HB 1365.

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

MR. SPEAKER: The Senate has passed unchanged: HB 1038, HB 1039, HB 1044, HB 1054, HB 1057, HB 1116, HB 1140, HB 1237, HB 1240, HB 1445.

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

MR. SPEAKER: The Senate has amended and subsequently passed: HB 1262.

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

MR. SPEAKER: The Senate has failed to pass: HB 1040.

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

MR. SPEAKER: The Senate has amended and subsequently failed to pass: HB 1464.

CONSIDERATION OF AMENDMENTS

HB 1023: SEN. YOCKIM (Appropriations Committee) MOVED that the amendments on SJ page 956 be adopted and then be placed on the Fourteenth order with DO PASS, which motion prevailed.

CONSIDERATION OF AMENDMENTS

HB 1208: SEN. LIPS (Appropriations Committee) MOVED that the amendments on SJ page 965 be adopted and then be placed on the Fourteenth order with DO PASS, which motion prevailed.

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

MR. SPEAKER: The Senate has adopted the conference committee report and subsequently passed: SCR 4019.

CONSIDERATION OF AMENDMENTS

HB 1436: SEN. FREBORG (Agriculture Committee) MOVED that the amendments on SJ pages 970-971 be adopted and then be placed on the Fourteenth order with DO PASS.

REQUEST

SEN. TOMAC REQUESTED that the Senate divide the amendments to Engrossed HB 1436, which request was granted.

DIVISION I: Page 1, line 21, remove "farm labor," and remove the second underscored comma

DIVISION II: Page 2, line 1, replace "or" with an underscored comma and after "guardian" insert ", grandparent"

Renumber accordingly

The question being on the adoption of Division I of the proposed amendments to Engrossed HB 1436.

Division I of the proposed amendments to Engrossed HB 1436 failed on a voice vote.

The question being on the adoption of Division II of the proposed amendments to Engrossed HB 1436.

Division II of the proposed amendments to Engrossed HB 1436 was adopted on a voice vote.

CONSIDERATION OF AMENDMENTS

HB 1474: SEN. GRINDBERG (Education Committee) MOVED that the amendments on SJ page 972 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

CONSIDERATION OF AMENDMENTS

HB 1475: SEN. SCHERBER (Education Committee) MOVED that the amendments on SJ page 972 be adopted and then be placed on the Fourteenth order with **DO NOT PASS**, which motion prevailed.

CONSIDERATION OF AMENDMENTS

HB 1498: SEN. HEINRICH (Education Committee) MOVED that the amendments on SJ page 974 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

CONSIDERATION OF AMENDMENTS

HB 1062: SEN. ANDRIST (Judiciary Committee) MOVED that the amendments on SJ page 1016 be adopted and then be placed on the Fourteenth order with **DO PASS**.

REQUEST

SEN. SOLBERG REQUESTED that the Senate divide the amendments to HB 1062, which request was granted.

DIVISION I: Page 3, line 9, remove "and a day"

DIVISION II: Page 8, line 4, remove "the"

Page 8, line 5, remove "director determines are"

Renumber accordingly

The question being on the adoption of Division I of the proposed amendments to HB 1062.

Division I of the proposed amendments to HB 1062 failed on a voice vote.

The question being on the adoption of Division II of the proposed amendments to HB 1062.

Division II of the proposed amendments to HB 1062 was adopted on a voice vote.

MOTION

SEN. MATHERN MOVED that HB 1062 be rereferred to the **Appropriations**

Committee, which motion prevailed. Pursuant to Sen. Mathern's motion, HB 1062 was rereferred.

CONSIDERATION OF AMENDMENTS

HB 1084: SEN. BOWMAN (Human Services Committee) MOVED that the amendments on SJ pages 1016-1017 be adopted and then be placed on the Fourteenth order with DO NOT PASS, which motion prevailed.

CONSIDERATION OF AMENDMENTS

HB 1091: SEN. SOLBERG (Agriculture Committee) MOVED that the amendments on SJ page 1017 be adopted and then be placed on the Fourteenth order with DO PASS, which motion prevailed.

CONSIDERATION OF AMENDMENTS

HB 1326: SEN. B. STENEHJEM (Human Services Committee) MOVED that the amendments on SJ pages 1019-1020 be adopted and then be placed on the Fourteenth order with DO PASS, which motion prevailed.

CONSIDERATION OF AMENDMENTS

HB 1366: SEN. LINDGREN (Human Services Committee) MOVED that the amendments on SJ page 1020 be adopted and then be placed on the Fourteenth order with DO PASS, which motion prevailed.

CONSIDERATION OF AMENDMENTS

HB 1490: SEN. NALEWAJA (Human Services Committee) MOVED that the amendments on SJ pages 1022-1023 be adopted and then be placed on the Fourteenth order with DO PASS, which motion prevailed.

SECOND READING OF HOUSE CONCURRENT RESOLUTION

HCR 3026: A concurrent resolution directing the Legislative Council to study the loss of employment by teachers and administrators as a result of school district reorganizational, cooperative, and restructuring programs, including the possibility of changes in retirement benefits for those teachers and administrators.

The question being on the final adoption of the amended resolution, which has been read, and has committee recommendation of DO PASS.

HCR 3026 was declared adopted and the title was agreed to.

SECOND READING OF HOUSE BILL

HB 1075: A BILL for an Act to create and enact two new sections to chapter 54-52 of the North Dakota Century Code, relating to prior service retiree adjustments under the public employees retirement system; to amend and reenact subdivision a of subsection 3 and subdivision a of subsection 4 of section 54-52-17 of the North Dakota Century Code, relating to normal retirement date for participating members of the public employees retirement system and the computation of benefits under the public employees retirement system; 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 44 YEAS, 2 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

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

NAYS: Nelson; Solberg

ABSENT AND NOT VOTING: Dotzenrod; Tennefos; Wogsland

HB 1075 passed and the title was agreed to.

SECOND READING OF HOUSE BILL

HB 1079: A BILL for an Act to amend and reenact subsection 8 of section 28-32-01, subsections 1 and 3 of section 28-32-05, subsection 1 of section 28-32-14, subsection 6 of section 28-32-15, and subsections 2, 4, and 6 of section 28-32-17 of the North Dakota Century Code, relating to administrative practices and procedures.

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 47 YEAS, 0 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

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

ABSENT AND NOT VOTING: Dotzenrod; Tennefos

HB 1079 passed and the title was agreed to.

SECOND READING OF HOUSE BILL

HB 1097: A BILL for an Act to amend and reenact section 39-16.1-07 of the North Dakota Century Code, relating to the revocation or suspension of an operator's license for failure to comply with financial responsibility laws.

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 47 YEAS, 0 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

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

ABSENT AND NOT VOTING: Dotzenrod; Tennefos

HB 1097 passed and the title was agreed to.

MOTION

SEN. MATHERN MOVED that HB 1136 be moved to the bottom of the calendar, which motion prevailed.

SECOND READING OF HOUSE BILL

HB 1139: A BILL for an Act to amend and reenact section 65-05.1-06.2 of the

North Dakota Century Code, relating to workers' compensation rehabilitation services bids.

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 46 YEAS, 0 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

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

ABSENT AND NOT VOTING: Dotzenrod; Naaden; Tennefos

HB 1139 passed and the title was agreed to.

SECOND READING OF HOUSE BILL

HB 1142: A BILL for an Act to regulate the disposal of dredged and fill material in certain waters of the state of North Dakota; to provide a penalty; 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 31 YEAS, 16 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

YEAS: Bowman; Evanson; Freborg; Goetz; Grindberg; Jerome; Keller; Kelly; Kelsh; Kinnoin; Krauter; Krebsbach; Langley; Lindgren; Marks; Maxson; Mushik; Naaden; Nalewaja; Nelson; Nething; Redlin; Robinson; Solberg; Stenehjem, W.; Streibel; Tallackson; Tomac; Uriacher; Wogsland; Yockim

NAYS: Andrist; DeMers; Graba; Heinrich; Holmberg; Lindaas; Lips; Mathern; Mutch; O'Connell; Sand; Scherber; Schoenwald; Stenehjem, B.; Thane; Traynor

ABSENT AND NOT VOTING: Dotzenrod; Tennefos

HB 1142 passed and the title was agreed to.

SECOND READING OF HOUSE BILL

HB 1158: A BILL for an Act to amend and reenact sections 15-40.1-07, 15-40.1-08, 15-40.2-09, and 15-40.2-10 of the North Dakota Century Code, relating to payment of foundation aid for North Dakota students attending out-of-state schools.

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 47 YEAS, 0 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

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

ABSENT AND NOT VOTING: Dotzenrod; Tennefos

HB 1158 passed and the title was agreed to.

SIGNING OF BILLS AND RESOLUTIONS

The President signed the following enrolled bills: HB 1046, HB 1072, HB 1080, HB 1094, HB 1105, HB 1109, HB 1112, HB 1127, HB 1129, HB 1131, HB 1133, HB 1144, HB 1147, HB 1157, HB 1200, HB 1214, HB 1257, HB 1258, HB 1263, HB 1268, HB 1271, HB 1276, HB 1277, HB 1279, HB 1295, HB 1308, HB 1324, HB 1343, HB 1355, HB 1359, HB 1388.

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

MR. SPEAKER: The President has signed: HB 1046, HB 1072, HB 1080, HB 1094, HB 1105, HB 1109, HB 1112, HB 1127, HB 1129, HB 1131, HB 1133, HB 1144, HB 1147, HB 1157, HB 1200, HB 1214, HB 1257, HB 1258, HB 1263, HB 1268, HB 1271, HB 1276, HB 1277, HB 1279, HB 1295, HB 1308, HB 1324, HB 1343, HB 1355, HB 1359, HB 1388.

SECOND READING OF HOUSE BILL

HB 1178: A BILL for an Act providing for the adoption of an interstate agreement titled "The National Guard Mutual Assistance Counter-Drug Activities Compact" and for its implementation.

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 46 YEAS, 1 NAY, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

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

NAYS: DeMers

ABSENT AND NOT VOTING: Dotzenrod; Tennefos

HB 1178 passed and the title was agreed to.

SECOND READING OF HOUSE BILL

HB 1184: A BILL for an Act to amend and reenact sections 15-27.3-10, 15-34.2-01, 15-34.2-03, 15-40.1-16, 15-40.1-16.1, and 15-47-02.1 of the North Dakota Century Code, relating to state aid and school district payments for family-type transportation; and to repeal sections 15-40.1-16.2 and 15-40.1-16.3 of the North Dakota Century Code, relating to state aid to school districts for family-type transportation.

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 47 YEAS, 0 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

YEAS: Andrist; Bowman; DeMers; Evanson; Freborg; Goetz; Graba; Grindberg; Heinrich; Holmberg; Jerome; Keller; Kelly; Kelsh; Kinnoin; Krauter; Krebsbach; Langley; Lindaas; Lindgren; Lips; Marks; Mathern; Maxson; Mushik; Mutch; Naaden; Nalewaja; Nelson; Nething; O'Connell; Redlin; Robinson; Sand; Scherber; Schoenwald; Solberg; Stenehjem, B.;

Stenehjelm, W.; Streibel; Tallackson; Thane; Tomac; Traynor; Urlacher; Wogsland; Yockim

ABSENT AND NOT VOTING: Dotzenrod; Tennefos

HB 1184 passed and the title was agreed to.

SECOND READING OF HOUSE BILL

HB 1187: A BILL for an Act to create and enact a new section to chapter 57-40.6 of the North Dakota Century Code, relating to liability for an act or omission in connection with any emergency services communication system.

MOTION

SEN. LINDGREN MOVED that Engrossed HB 1187 be amended as follows, which motion prevailed.

In addition to the amendments to Engrossed House Bill No 1187 adopted by the Senate as printed on page 964 of the Senate Journal, Engrossed House Bill No. 1187 is amended as follows:

Page 1, line 7, replace the comma with "or"

Page 1, line 8, remove "or local exchange telecommunications company,"

Page 1, line 9, remove "or local exchange"

Page 1, line 10, remove "telecommunications company"

Renumber accordingly

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 47 YEAS, 0 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

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

ABSENT AND NOT VOTING: Dotzenrod; Tennefos

HB 1187 passed and the title was agreed to.

MOTION

SEN. MATHERN MOVED that the Senate stand in recess until 2:42 p.m., which motion prevailed.

THE SENATE RECONVENED pursuant to recess taken, with President Myrdal presiding.

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-fifth Day and recommends that it be corrected as follows and when so corrected, recommends that it be approved:

Page 898, after line 41, insert:

"COMMUNICATION FROM GOVERNOR EDWARD T. SCHAFER

March 11, 1993

Due to the fact that SB 2030, SB 2115, SB 2154, SB 2185, SB 2186, SB 2345, and SB 2411 are not signed by the Speaker of the House and the Chief Clerk of the House, I am returning these Senate bills."

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

SIGNING OF BILLS AND RESOLUTIONS

The President signed the following enrolled bills: SB 2058, SB 2378, SB 2447.

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

MR. SPEAKER: The President has signed and your signature is respectfully requested on: SB 2058, SB 2378, SB 2447.

SIGNING OF BILLS AND RESOLUTIONS

The President signed the following enrolled bills: SB 2052, SB 2229, SB 2294, SB 2298, SB 2303, SB 2336, SB 2337, SB 2354, SB 2355, SB 2356, SB 2474, SB 2484, SB 2506, SB 2513, SB 2514, SB 2520, SB 2521, SB 2533.

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

MR. SPEAKER: The President has signed and your signature is respectfully requested on: SB 2052, SB 2229, SB 2294, SB 2298, SB 2303, SB 2336, SB 2337, SB 2354, SB 2355, SB 2356, SB 2474, SB 2484, SB 2506, SB 2513, SB 2514, SB 2520, SB 2521, SB 2533.

MOTION

SEN. MATHERN MOVED that SB 2055 be reconsidered pursuant to Article V, Section 9, of the Constitution of the State of North Dakota for the purpose of overriding the Governor's veto, which motion prevailed.

RECONSIDERATION OF A VETOED MEASURE

SB 2055: A BILL for an Act to create and enact two new sections to chapter 15-38 of the North Dakota Century Code, relating to confidentiality of student information; and to amend and reenact sections 15-36-15, 15-36-16, and 15-38-19 of the North Dakota Century Code, relating to suspension and revocation of teacher certificates.

ROLL CALL

The question being on the passage of the bill, as enrolled over the Governor's veto, which has been read, the roll was called and there were 22 YEAS, 25 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

YEAS: DeMers; Graba; Heinrich; Jerome; Keller; Kelly; Kelsh; Krauter; Langley; Lindaas; Marks; Mathern; Mushik; O'Connell; Redlin; Robinson; Scherber; Schoenwald; Tallackson; Tomac; Wogsland; Yockim

NAYS: Andrist; Bowman; Evanson; Freborg; Goetz; Grindberg; Holmberg; Kinnoin; Krebsbach; Lindgren; Lips; Maxson; Mutch; Naaden; Nalewaja; Nelson; Nething; Sand; Solberg; Stenehjem, B.; Stenehjem, W.; Streibel; Thane; Traynor; Urlacher

ABSENT AND NOT VOTING: Dotzenrod; Tennefos

The Senate sustained the Governor's veto on SB 2055.

SECOND READING OF HOUSE BILL

HB 1203: A BILL for an Act to create and enact a new section to chapter 4-24 of the North Dakota Century Code, relating to reports by agricultural commodity groups to the legislative assembly; to amend and reenact

sections 4-10.1-09, 4-10.2-08, 4-10.3-08, 4-10.6-10, 4-12.1-03, 4-13.1-05, 4-18.1-12, 4-24-09, and 4-28-08 of the North Dakota Century Code, relating to continuing appropriations for the North Dakota potato council, the North Dakota oilseed council, the North Dakota edible bean council, the North Dakota corn utilization council, the North Dakota beekeepers association, the North Dakota turkey federation, the North Dakota milk stabilization board, and the North Dakota state wheat commission; and to provide continuing appropriations.

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 40 YEAS, 7 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

YEAS: Andrist; Bowman; DeMers; Evanson; Freborg; Goetz; Graba; Grindberg; Holmberg; Jerome; Keller; Kelsh; Kinnoin; Krauter; Krebsbach; Langley; Lindaas; Lindgren; Lips; Marks; Mathern; Maxson; Mutch; Naaden; Nalewaja; Nething; Robinson; Sand; Scherber; Schoenwald; Solberg; Stenehjem, B.; Stenehjem, W.; Streibel; Tallackson; Tomac; Traynor; Urlacher; Wogsland; Yockim

NAYS: Heinrich; Kelly; Mushik; Nelson; O'Connell; Redlin; Thane

ABSENT AND NOT VOTING: Dotzenrod; Tennefos

HB 1203 passed and the title was agreed to.

MOTION

SEN. MATHERN MOVED that HB 1211 be placed at the bottom of the calendar, which motion prevailed.

SECOND READING OF HOUSE BILL

HB 1275: A BILL for an Act to amend and reenact sections 54-12-08 and 65-02-06 of the North Dakota Century Code, relating to assistant attorneys general employed by the workers compensation bureau.

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 23 YEAS, 24 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

YEAS: Andrist; Bowman; Evanson; Freborg; Goetz; Grindberg; Holmberg; Krebsbach; Lindgren; Lips; Mutch; Naaden; Nalewaja; Nelson; Nething; Sand; Solberg; Stenehjem, B.; Stenehjem, W.; Streibel; Thane; Traynor; Urlacher

NAYS: DeMers; Graba; Heinrich; Jerome; Keller; Kelly; Kelsh; Kinnoin; Krauter; Langley; Lindaas; Marks; Mathern; Maxson; Mushik; O'Connell; Redlin; Robinson; Scherber; Schoenwald; Tallackson; Tomac; Wogsland; Yockim

ABSENT AND NOT VOTING: Dotzenrod; Tennefos

HB 1275 lost.

SECOND READING OF HOUSE BILL

HB 1315: A BILL for an Act to create and enact a new subsection to section 57-02-08 of the North Dakota Century Code, relating to a property tax exemption for residential property owned by the department of housing and urban development, farmers home administration, or the

veterans administration and leased to a nonprofit corporation for use by the homeless; 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 NOT PASS, the roll was called and there were 16 YEAS, 29 NAYS, 0 EXCUSED, 4 ABSENT AND NOT VOTING.

YEAS: DeMers; Graba; Heinrich; Jerome; Kelly; Lips; Marks; Mathern; Mushik; Nalewaja; Redlin; Robinson; Scherber; Schoenwald; Thane; Yockim

NAYS: Andrist; Bowman; Evanson; Freborg; Goetz; Grindberg; Keller; Kelsh; Kinnoin; Krauter; Krebsbach; Langley; Lindaas; Lindgren; Maxson; Mutch; Naaden; Nelson; Nething; O'Connell; Sand; Solberg; Stenehjerm, B.; Stenehjerm, W.; Streibel; Tallackson; Tomac; Traynor; Urlacher

ABSENT AND NOT VOTING: Dotzenrod; Holmberg; Tennefos; Wogsland

HB 1315 lost.

SECOND READING OF HOUSE BILL

HB 1347: A BILL for an Act to provide for optional, advisory study by local citizens and leaders of statutory tools to adapt their local government structure and operation to local needs and resources, and to prepare for maximum effectiveness, creativity, and efficiency in future local governance; to create and enact two new chapters to title 11, two new sections to chapter 11-05, a new section to chapter 11-06, a new section to chapter 11-09.1, a new section to title 40, a new section to chapter 40-05.1, two new sections to chapter 40-49, a new chapter to title 40, and three new chapters to title 54 of the North Dakota Century Code, relating to optional tools for restructuring local governance including joint powers agreements, options for combining or separating elective county offices or redesignating county offices as elective or appointive, options for sharing offices among counties and among other local governments, options for broader participation in county and city home rule, procedures for optional transfers of local government powers or functions to counties, changes in county lines, county consolidation, and procedures for increasing or decreasing the number of members of city governing boards and city park commissioners, for combining boards of park commissioners, and for dissolving a city park district; to amend and reenact sections 11-05-02, 11-05-04, 11-05-05, 11-05-07, 11-05-25, 11-05-26, 11-05.1-01, 11-05.1-03, 11-05.1-04, 11-05.1-06, 11-08-02.1, 11-08-05, 11-09-03, 11-09-07, 11-09-48, 11-09.1-02, 11-09.1-03, 11-09.1-04, subsection 3 of section 11-09.1-05, sections 11-10-02, 40-04.1-01, 40-04.1-02, 40-05.1-01, 40-05.1-03, 40-05.1-04, 40-08-03, 40-08-04, 40-09-01, 40-09-04, 40-10-02, 40-12-01, 40-14-04, 40-49-05, and 54-40-08 of the North Dakota Century Code and to amend and reenact section 10 of chapter 326 and sections 4, 8, and 9 of chapter 442 of the 1991 Session Laws of North Dakota, relating to procedures for adopting the consolidated office and county manager forms of county government, the city manager plan, county and city home rule, and county consolidation, joint powers agreements, the removal of the minimum population requirement for adopting city home rule, membership on the governing bodies of cities and city park boards, and appointive offices in council cities; and to repeal sections 11-05-01, 11-05-03, 11-05-08, 11-05-10, 11-05-11, 11-05-11.1, 11-05-12, 11-05-13, 11-05-14, 11-05-16, 11-05-17, 11-05-18, 11-05-19, 11-05-20, 11-05-21, 11-05-22, 11-05-23, 11-05-24, 11-05-27, 11-06-02, 11-06-05, 11-08-02, 11-09-02, 11-09.1-08, 40-05.1-09, 40-08-03.1, 40-08-03.2, 40-08-04.1, 40-08-06.1, and 54-40-07 of the North Dakota Century Code and section 5 of chapter 326 and section 6 of chapter 442 of the 1991 Session Laws of North Dakota, relating to procedures for county consolidation and changes in county lines,

membership on the governing bodies of cities, and clarification of the authority of political subdivisions to enter into joint powers agreements.

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 41 YEAS, 5 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

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

NAYS: Freborg; Langley; Mutch; Stenehjem, B.; Streibel

ABSENT AND NOT VOTING: Dotzenrod; Holmberg; Tennefos

HB 1347 passed and the title was agreed to.

MOTION

SEN. MATHERN MOVED that HB 1375 be placed at the top of the calendar, which motion prevailed.

MOTION

SEN. MATHERN MOVED that HB 1375 be laid over one legislative day, which motion prevailed.

MOTION

SEN. MATHERN MOVED that the vote by which HB 1075, HB 1079, HB 1097, HB 1139, HB 1142, HB 1158, HB 1178, HB 1184, HB 1187, HB 1203, HB 1347, and HCR 3026 passed be reconsidered and the motion to reconsider be laid on the table, which motion prevailed.

MOTION

SEN. MATHERN MOVED that the vote by which HB 1275 and HB 1315 failed be reconsidered and the motion to reconsider be laid on the table, which motion prevailed.

MOTION

SEN. MATHERN MOVED that the absent members 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 11:00 a.m., Friday, March 19, 1993, which motion prevailed.

REPORT OF STANDING COMMITTEE

HB 1026: Government and Veterans Affairs Committee (Sen. Tomac, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends BE PLACED ON THE CALENDAR WITHOUT RECOMMENDATION (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1026 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 54-06 and a new section to chapter 54-52.1 of the North Dakota Century Code, relating to discharge or replacement of certain governmental employees to avoid providing benefits; and to amend and reenact section 54-06-14 and

subsection 4 of section 54-52.1-01 of the North Dakota Century Code, relating to sick, annual, and family leave and group medical benefits.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-06-14 of the 1992 Special Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-06-14. Annual leave and sick leave for state employees. Annual leave and sick leave must be provided for all persons in the ~~permanent~~ employment of this state for at least one year who are not employed under a written contract of hire setting forth the terms and conditions of their employment, within the limitations, terms, and provisions of this section. Annual leave for an employee entitled to it must be within a range of a minimum of one working day per month of employment to a maximum of two working days per month of employment, based on tenure of employment, to be fixed by rules adopted by the employing unit. Sick leave for an employee entitled to it must be within a range of a minimum of one working day per month of employment to a maximum of one and one-half working days per month of employment, based on tenure of employment, to be fixed by rules adopted by the employing unit. Annual leave must be compensated for on the basis of full pay for the number of working days' leave credited to the employee. Sick leave must be compensated for on the basis of full pay for absence due to illness on working days during tenure of employment. An employee with at least ten continuous years of state employment is entitled to a lump sum payment equal to one-tenth of the pay attributed to the employee's unused sick leave accrued under this section. The pay attributed to the accumulated, unused sick leave must be computed on the basis of the employee's salary or wage at the time the employee leaves the employ of the state and at the rate of one hour of pay for each hour of unused sick leave. The agency, unit, or entity that last employed the employee shall make the lump sum payment from funds appropriated by the legislative assembly to that agency, unit, or entity for salaries and wages. Any state agency, unit, or entity which employs persons subject to this section shall formulate and adopt rules governing the granting of annual leave and sick leave which will effectuate the purpose of this section and best suit the factors of employment of that employing unit. Each employing unit shall file with the office of management and budget a copy of the rules adopted, including any amendments or additions to the rules. No employing unit may discharge or replace any person to avoid providing any benefit under this section.

SECTION 2. A new section to chapter 54-06 of the North Dakota Century Code is created and enacted as follows:

Discrimination - Employment policies and benefits. No employing unit of this state may discriminate in its employment policies or benefits between any permanent employee or temporary employee employed at least one year.

SECTION 3. AMENDMENT. Subsection 4 of section 54-52.1-01 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

4. "Eligible employee" means every permanent employee who is employed by a governmental unit, as that term is defined in section 54-52-01. "Eligible employee" includes members of the legislative assembly, judges of the supreme court, paid members of state or political subdivision boards, commissions, or associations, full-time employees of political subdivisions, elective state officers as defined by subsection 2 of section 54-06-01, and disabled permanent

employees who are receiving compensation from the North Dakota workers' compensation fund. As used in this subsection, "permanent employee" means one whose services are not limited in duration, who is filling an approved and regularly funded position in a governmental unit, and who is employed at least seventeen and one-half hours per week and at least five months each year. As used in this subsection, "permanent employee" also means a temporary employee who has been employed by a governmental unit for at least one year.

SECTION 4. A new section to chapter 54-52.1 of the North Dakota Century Code is created and enacted as follows:

Discharge - Replacement. No governmental unit may discharge or replace any person to avoid providing any benefit under this chapter."

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1103: Finance and Taxation Committee (Sen. Dotzenrod, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1103 was placed on the Sixth order on the calendar.

Page 1, line 2, after "for" insert "certain"

Page 1, line 3, after "leased" insert "from the state" and replace "agricultural purposes from a governmental entity" with "pasture or grazing purposes or upon which the state makes payments in lieu of taxes"

Page 1, line 4, after "57-02-26" insert "and section 57-02.3-01"

Page 1, line 5, after "of" insert ", and payments in lieu of taxes on, certain" and remove "for"

Page 1, line 6, remove "agricultural purposes" and replace "a governmental entity" with "the state"

Page 1, line 11, remove "the United States or"

Page 1, line 12, replace "or a political subdivision of the state and used by the" with "which has been leased for pasture or grazing purposes or upon which payments in lieu of property taxes are made by the state."

Page 1, remove line 13

Page 1, line 20, remove the overstrike over "~~pasture or grazing~~" and remove "agricultural"

Page 1, line 21, after "purposes" insert "or upon which the state makes payments in lieu of property taxes"

Page 2, after line 4, insert:

"SECTION 3. AMENDMENT. Section 57-02.3-01 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

57-02.3-01. Definition. As used in this chapter, unless the context or subject matter otherwise clearly indicates, "property subject to valuation" means real property owned by the board of university and school lands or by the state treasurer as trustee for the state of North Dakota, title to which was obtained after January 1, 1980, by foreclosure or deed in lieu of foreclosure of a mortgage given

to the Bank of North Dakota, including a mortgage assigned to the state treasurer under section 54-30-02. "Property subject to valuation" also means real property owned by the board of university and school lands or by the state treasurer as trustee for the state of North Dakota, title to which was obtained on or before January 1, 1980, and which is leased to a leaseholder who uses the property for growing hay or crops."

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1234: Government and Veterans Affairs Committee (Sen. Tomac, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (6 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). HB 1234 was placed on the Sixth order on the calendar.

Page 1, line 12, replace "The state agency head shall appoint three employees of" with "The suggestion incentive committee shall administer the employee suggestion incentive program created under this Act and review all recommendations or proposals for reduction of expenditures. The governor shall appoint five state agency heads to the suggestion incentive committee for four-year staggered terms to commence on August first in the year of appointment and to continue until the successors are appointed."

Page 1, remove lines 13 and 14

Page 2, after line 2, insert:

"(3) Implementation of the recommendation or proposal will continue to provide the quality of the services presently provided by the state agency."

Page 2, line 4, after "head" insert "of the employee submitting the recommendation or proposal"

Page 2, remove lines 26 and 27

Page 2, line 28, replace "7." with "6."

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1383: Human Services Committee (Sen. Mathern, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1383 was placed on the Sixth order on the calendar.

Page 1, line 2, replace "five" with "six"

Page 1, replace lines 10 through 12 with:

"Personal physician" means the physician designated by a patient as the patient's primary physician or if no physician has been designated or the designated physician is unable to make a determination as to whether a significant exposure has occurred, the patient's primary attending physician. The term means the local health officer having jurisdiction in the area the significant exposure has allegedly occurred if the patient has no attending physician or designated primary physician."

Page 2, line 4, replace "center" with "centers"

Page 2, replace lines 15 through 22 with:

- a. A sample of the patient's blood has been drawn for other purposes and is available to be used to test for the presence of the human immunodeficiency virus."

Page 2, line 23, replace "A" with "The patient's personal"

Page 3, line 10, after the first "record" insert "of the test results may be placed in the individual's medical record, and if not in the medical record," and remove "of the test results"

Page 3, line 11, after the period insert "A person who discloses the identity of a patient under this Act is guilty of a class C felony. Each individual who has had a significant exposure and to whom test results are disclosed must first sign a document indicating that individual's understanding that the individual may not disclose the information and that disclosing the information constitutes a class C felony."

Page 3, line 20, after "a." insert "A sample of the provider's blood has been drawn for other purposes and is available to be used to test for the presence of the human immunodeficiency virus.

b."

Page 3, line 23, remove "If the patient who has had"

Page 3, remove lines 24 and 25

Page 3, line 26, replace "b." with "c."

Page 4, line 1, replace "c." with "d."

Page 4, line 11, after the period insert "A person who discloses the identity of the provider or otherwise breaches the confidentiality requirements of this subsection is guilty of a class C felony. Each patient who has had a significant exposure and to whom test results are disclosed must first sign a document indicating that patient's understanding that the patient may not disclose the information and that disclosing the information constitutes a class C felony."

Page 4, line 28, replace "a" with "b", replace "require" with "request", and after "that" insert "a court order be issued ordering"

Page 4, line 29, after "patient" insert "or provider" and after "exposure" insert "to"

Page 5, line 3, after the period insert "A court order requiring testing issued pursuant to a request under this subsection may only be issued if:

- a. The patient or provider has been requested to consent to testing and has refused to be tested and a sample of the patient's or provider's blood is not available to be used to test for the human immunodeficiency virus.
- b. The court finds clear and imminent danger to the public health or the health of the person requesting the testing and the person has demonstrated a compelling need for the test which cannot be accommodated by other means.
- c. The pleadings pertaining to the request for an involuntary test substitute a pseudonym for the true name of the person to be tested; however, disclosure to the parties of the person's true name must be communicated confidentially in documents not filed with the court.

- d. The court provides the person to be tested with notice and reasonable opportunity to participate in the proceeding if the person is not already a party to the proceeding.
- e. The proceedings are conducted in camera unless the subject of the test agrees to a hearing in open court or the court determines that a public hearing is necessary to the public interest.
- f. The court imposes appropriate safeguards against unauthorized disclosure which must specify the persons who have access to the information, the purposes for which the information may be used, and appropriate prohibition on future disclosure."

Page 5, line 12, after "request" insert ", subject to the provisions of this chapter"

Page 5, after line 12, insert:

"SECTION 7. A new subsection to section 23-07.5-02 of the North Dakota Century Code is created and enacted as follows:

A health care provider who subjects a patient to a significant exposure must notify the patient of the exposure. A health care provider witnessing a significant exposure may report the exposure pursuant to any appropriate facility or employer guidelines that the provider may be subject. The knowing failure to inform a patient of a significant exposure or refusal to submit to testing as required under this chapter may be considered by a health care provider's licensing board to constitute conduct that may subject the licensee to disciplinary action."

ReNUMBER accordingly

REPORT OF STANDING COMMITTEE

HB 1426: Education Committee (Sen. Heinrich, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (4 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). HB 1426 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact section 11-10-10.5 of the North Dakota Century Code, relating to the employment of a county superintendent of schools.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 11-10-10.5 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

11-10-10.5. County superintendent of schools - Officer. For purposes of sections 11-10-10, 11-10-15, and 11-10-20, the county superintendent of schools employed by the board of county commissioners is an officer of the county. Notwithstanding any other provision of law except section 15-22-01, a board of county commissioners may by majority vote employ a person who meets the qualifications provided in section 15-22-02 to serve as the county superintendent of schools on a part-time basis."

ReNUMBER accordingly

REPORT OF STANDING COMMITTEE

HB 1476: Education Committee (Sen. Heinrich, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (5 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). HB 1476 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact seven new sections to chapter 15-34.1 of the North Dakota Century Code, relating to the home-based instruction of students; to amend and reenact sections 15-34.1-03 and 15-34.1-04 of the North Dakota Century Code, relating to compulsory attendance; to repeal section 15-34.1-05 of the North Dakota Century Code, relating to a penalty for the violation of compulsory attendance provisions; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15-34.1-03 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

15-34.1-03. Compulsory attendance - Exceptions. The parent, guardian, or other person having control of a child student required to attend school by the provisions of this chapter shall be excused by the school board from causing the child student to attend school whenever it shall be shown to the satisfaction of the board, subject to appeal as provided by law, that one of the following reasons exists:

1. That the child student is in attendance for the same length of time at a parochial or private school approved by the county superintendent of schools and the superintendent of public instruction. No such school shall be approved unless the teachers therein are legally certificated in the state of North Dakota in accordance with section 15-41-25 and chapter 15-36, the subjects offered are in accordance with sections 15-38-07, 15-41-06, and 15-41-24, and ~~such the~~ school is in compliance with all municipal and state health, fire, and safety laws.
2. That the child student has acquired the branches of learning taught in the public schools and has completed high school.
3. That the child student actually is necessary to the support of ~~his~~ the student's family, which shall be a question of fact to be determined by the governing board of the district with the approval of the county superintendent of schools, and ~~such the~~ determination shall be subject to review by the superintendent of public instruction on appeal.
4. That the child student has been identified as handicapped pursuant to the procedure used by the superintendent of public instruction to identify a student as handicapped under subsection 3 of section 15-59-01 and that the handicap renders attendance or participation in the regular or special education program inexpedient or impracticable. The determination that the handicap renders attendance or participation inexpedient or impracticable must be shown by a declaration of a multidisciplinary team which includes the director of special education ~~of from~~ the special education unit ~~of in~~ which the school district of residence is a member, the school superintendent of the ~~child's~~ student's district of residence, the ~~child's~~ student's classroom teacher, the ~~child's~~ student's physician, and the ~~child's~~ student's parent or guardian.

5. That the student, not including a student with developmental disabilities as defined by subsection 1 of section 25-01.2-01, is receiving home-based instruction in accordance with the provisions of this chapter.

SECTION 2. A new section to chapter 15-34.1 of the North Dakota Century Code is created and enacted as follows:

Definitions. As used in this chapter, unless the context requires otherwise:

1. "Home-based instruction" means an educational program for students based in the child's home and supervised by the child's parent or parents wherein a resident of North Dakota may legally fulfill the compulsory instruction requirements of section 15-34.1-01.
2. "Nonpublic school" means an educational institution which students attend in lieu of public school attendance wherein a resident of North Dakota may legally fulfill the compulsory instruction requirements of section 15-34.1-01.
3. "Parent" includes a legal guardian.
4. "School" means a public school supported, in whole or in part, by state funds wherein a resident of North Dakota may legally fulfill the compulsory instruction requirements of section 15-34.1-01.

SECTION 3. A new section to chapter 15-34.1 of the North Dakota Century Code is created and enacted as follows:

Home-based instruction. Home-based instruction is an educational program for students based in the child's home and supervised by the student's parent. A parent who provides home-based instruction may only invoke the home-based instruction exception to compulsory attendance. A parent is qualified to supervise a program of home-based instruction if the parent is certified to teach in North Dakota; has a high school education or has received a general educational development certificate and is monitored by a certified teacher employed either by the public school district in which the parent resides or, if requested by the parent, by a state-approved school; or has met or exceeded the cutoff score of the national teacher exam normed in North Dakota, or in any other state if North Dakota does not establish normed cutoff scores. Home-based instruction must include those subjects required to be taught in accordance with sections 15-38-07, 15-41-06, and 15-41-24 and must be provided for at least four hours per day for a minimum of one hundred seventy-five days per year. Every parent supervising home-based instruction shall maintain an annual record of courses taken by the student and the student's academic progress assessments, including any standardized achievement test results. A parent shall furnish these records to any school to which the student may transfer upon request of the superintendent or other administrator of that public school district. A parent intending to supervise home-based instruction for the parent's student shall file an annual statement with the superintendent of the public school district in which the student resides. If the school district does not employ a local school superintendent, the statement must be filed with the county superintendent of schools for the county of the student's residence. The statement must be filed at least thirty days prior to the beginning of the school semester for which the parent requests an exemption except when residency of the student is not established by that date. If residency has not been established, the statement must be filed within thirty days of the establishment of residency within the district. The statement must include:

1. The names and addresses of the parent who will supervise and the student who will receive home-based instruction;
2. The date of birth and grade level of each student;
3. The intention of the parent to supervise home-based instruction;
4. The qualifications of the parent who will supervise the home-based instruction;
5. A list of courses or extracurricular activities in which the student intends to participate in the public school district;
6. Proof of an immunization record as it relates to section 23-07-16;
7. Proof of identity as it relates to section 54-23.2-04.2; and
8. An oath or affirmation that the parent will comply with all provisions of this chapter.

SECTION 4. A new section to chapter 15-34.1 of the North Dakota Century Code is created and enacted as follows:

Students receiving home-based instruction - Quality assurance. In order to meet the state's compelling interest in assuring that citizens of the state receive a quality education, the following minimum indices of quality education are established:

1. A standardized achievement test used by the public school in the school district in which the parent resides or, if requested by the parent, a standardized achievement test used by a state-approved nonpublic school must be given annually to each student receiving home-based instruction starting with grade three and annually thereafter. The test must be given in the student's learning environment or the public school and must be administered by a certified teacher employed by the public school district in which the parent resides or, if requested by the parent, employed by a state-approved nonpublic school. The cost of such testing must be borne by the local school district in which the parent resides if the test is administered by a certified teacher employed by a public school district or by the parent of the student if the test is administered by a certified teacher employed by a state-approved nonpublic school. Results of such testing must be filed with the local public school superintendent. If the parent resides in a school district which does not employ a local school superintendent, the results must be filed with the county superintendent of schools for the county of the parent's residence.
2. If the child's basic composite score on a standardized achievement test falls below the thirtieth percentile nationally, the student must be professionally evaluated for a potential learning problem. If the multidisciplinary assessment team evaluation determines that the student is not handicapped according to the eligibility criteria of the department of public instruction and the student does not require specially designed instruction according to rules adopted by the department of public instruction, the parent providing instruction may continue to provide home-based instruction, upon filing with the superintendent of public instruction a statement, from an appropriately licensed

professional, that the student is currently making reasonable academic progress when the learning abilities of the student are taken into consideration. If such statement is not filed, the parent is not entitled to an exemption under subsection 5 of section 15-34.1-03. If the evaluation of the multidisciplinary assessment team determines that the student is handicapped, but not developmentally disabled, according to the eligibility criteria of the department of public instruction, and the student requires specially designed instruction due to the handicap and that this instruction cannot be provided without special education and related services, the parent providing instruction may continue to provide home-based instruction, upon filing with the superintendent of public instruction an individualized education program plan, formulated within rules adopted by the department of public instruction, indicating that the student's needs for special education are being appropriately addressed by persons qualified to provide special education or related services. If such a plan is not filed, the parent is not entitled to an exemption under subsection 5 of section 15-34.1-03.

3. Any certified teacher monitoring home-based instruction shall spend a minimum average of one hour per week in contact with the first student and in conjunction with the parent. With two or more students under supervision, the teacher shall monitor a minimum additional one-half hour per month for each student under the teacher's supervision who is receiving home-based instruction. The teacher shall evaluate the student's progress and report the student's progress at least twice annually to the local public school superintendent. If the school district does not employ a local school superintendent, the report must be filed with the county superintendent of schools for the county of the student's residence.
4. If the local superintendent of public schools or the county superintendent of schools in those school districts that do not employ a local superintendent determines that the student is not making reasonable academic progress consistent with the student's age or stage of development, the parent of the student must be notified of the conclusion reached and the basis for the conclusion. Upon receipt of that notice, the parent shall make a good faith effort to remedy any deficiency. The appropriate official shall report the failure on the part of a parent to make a good faith effort to the state's attorney pursuant to section 15-34.1-04 as a violation of this chapter. The superintendent of public instruction shall adopt rules to assist local superintendents of schools, county superintendents of schools, and the licensed professionals referred to in subsection 2, in determining whether a student is making reasonable academic progress.

SECTION 5. A new section to chapter 15-34.1 of the North Dakota Century Code is created and enacted as follows:

State aid. For purposes of allocating foundation aid and other state assistance to local school districts, a student receiving home-based instruction is deemed enrolled in the school district in which the student resides if the student is monitored by a certificated teacher employed by the public school district in which the parent resides. A school district is entitled to one-half of the per-student payment provided in section 15-40.1-06 times the appropriate factor in section 15-40.1-07 or 15-40.1-08 for each such student. When a

student is supervised through home-based instruction and is enrolled in classes in the public school, proportionate payments must be made as provided in sections 15-40.1-07 and 15-40.1-08. The total amount may not exceed the equivalent of one full foundation aid payment.

SECTION 6. A new section to chapter 15-34.1 of the North Dakota Century Code is created and enacted as follows:

Monitoring or administration by a state-approved nonpublic school. Any certified teacher employed by a state-approved nonpublic school who monitors home-based instruction or who administers a standardized achievement test to a student receiving home-based instruction must notify the student's public school district of residence that the teacher is providing such monitoring or administration. The parent of any student receiving home-based instruction that is monitored by or taking a test administered by a certified teacher employed by a state-approved nonpublic school is responsible for any costs charged by the state-approved private or parochial school for such monitoring or test administration.

SECTION 7. A new section to chapter 15-34.1 of the North Dakota Century Code is created and enacted as follows:

Home-based instruction - Liability. No state agency, public school, or county superintendent may be found liable for accepting as correct the information on the statement of intent or for any damages resulting from a parent's failure to educate the student.

SECTION 8. A new section to chapter 15-34.1 of the North Dakota Century Code is created and enacted as follows:

Home-based instruction - High school diploma - Fee. The superintendent of public instruction shall issue to a student who has completed the requirements for high school graduation through home-based instruction a diploma that clearly indicates that the requirements for graduation have been met through home-based instruction. The superintendent may charge a fee for issuing the diploma.

SECTION 9. AMENDMENT. Section 15-34.1-04 of the North Dakota Century Code is amended and reenacted as follows:

15-34.1-04. Prosecution for violation of compulsory attendance law - Officers charged with enforcement. Every school board member, school superintendent, principal, truant officer, and teacher in any school system in this state, and every county superintendent of schools shall be is charged with the enforcement of the provisions of this chapter relating to compulsory school attendance. ~~Such enforcement~~ Enforcement shall extend to all children who are students offered school facilities by the district, regardless of whether or not they actually reside within in the district. ~~Such~~ The persons listed in this section shall inquire into all cases of alleged violation of ~~such the provisions of this chapter~~ and shall obtain from any parent, guardian, or other person having custody of any child student of school age not attending school in accordance with the requirements of this chapter, the reason, if any, for such absence. In school districts not having a school superintendent, the county superintendent of schools shall be notified of any violation of the compulsory school attendance law, and ~~such the~~ county superintendent shall report the fact of the violation to the state's attorney of the county. In school districts ~~which that~~ have a school superintendent, the school superintendent or principal shall report to the state's attorney of the county the facts in connection with any violation of the compulsory attendance law. The state's attorney shall ~~prosecute any person who violates the compulsory school attendance provisions of~~

~~this chapter may petition a court, pursuant to chapter 27-20, for a determination as to whether a child is educationally deprived.~~ The school board of any school district having more than five hundred inhabitants may employ a truant officer to assist in the enforcement of the compulsory school attendance provisions.

SECTION 10. REPEAL. Section 15-34.1-05 of the North Dakota Century Code is repealed.

SECTION 11. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

FIRST READING OF HOUSE BILL

HB 1510: A BILL for an Act to create and enact a new section to chapter 40-57.1 of the North Dakota Century Code, relating to the tax commissioner providing a tax lien of record clearance before the state board of equalization grants a state income tax exemption for a new or expanding business; and to amend and reenact subsection 4 of section 40-57.1-02 of the North Dakota Century Code, relating to the definition of a project qualifying for an income tax exemption.

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

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

CAROL SIEGERT, Secretary