

JOURNAL OF THE SENATE

Fifty-third Legislative Assembly

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Bismarck, April 9, 1993

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

The prayer was offered by Senator O'Connell.

The roll was called and all members were present except Senators Naaden and Scherber.

A quorum was declared by the President.

REPORT OF CONFERENCE COMMITTEE

SEN. O'CONNELL MOVED that the conference committee report on Engrossed SB 2490 be adopted, which motion prevailed.

Engrossed SB 2490, as amended, was placed on the Eleventh order.

SECOND READING OF SENATE BILL

SB 2490: A BILL for an Act to amend and reenact section 15-40.2-09 of the North Dakota Century Code, relating to the attendance of students in public schools or institutions of bordering states.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 47 YEAS, 0 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

YEAS: Andrist; Bowman; DeMers; Dotzenrod; 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; Schoenwald; Solberg; Stenehjem, B.; Stenehjem, W.; Streibel; Tallackson; Tennefos; Thane; Tomac; Traynor; Urlacher; Wogsland; Yockim

ABSENT AND NOT VOTING: Naaden; Scherber

SB 2490 passed and the title was agreed to.

REPORT OF CONFERENCE COMMITTEE

SEN. GRABA MOVED that the conference committee report on Engrossed HB 1383 be adopted, which motion prevailed.

Engrossed HB 1383, as amended, was placed on the Fourteenth order.

SECOND READING OF HOUSE BILL

HB 1383: A BILL for an Act to create and enact four new subsections to section 23-07.5-01 and six new subsections to section 23-07.5-02 of the North Dakota Century Code, relating to testing for the human immunodeficiency virus.

ROLL CALL

The question being on the final passage of the amended bill, which has been

read, the roll was called and there were 47 YEAS, 0 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

YEAS: Andrist; Bowman; DeMers; Dotzenrod; 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; Schoenwald; Solberg; Stenehjem, B.; Stenehjem, W.; Streibel; Tallackson; Tennefos; Thane; Tomac; Traynor; Urlacher; Wogsland; Yockim

ABSENT AND NOT VOTING: Naaden; Scherber

HB 1383 passed and the title was agreed to.

REPORT OF CONFERENCE COMMITTEE

SEN. W. STENEHJEM MOVED that the conference committee report on Engrossed SB 2277 be adopted, which motion prevailed.

Engrossed SB 2277, as amended, was placed on the Eleventh order.

SECOND READING OF SENATE BILL

SB 2277: A BILL for an Act to amend and reenact section 23-02.1-27 of the North Dakota Century Code, relating to disclosure of certain vital records.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 47 YEAS, 0 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

YEAS: Andrist; Bowman; DeMers; Dotzenrod; 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; Schoenwald; Solberg; Stenehjem, B.; Stenehjem, W.; Streibel; Tallackson; Tennefos; Thane; Tomac; Traynor; Urlacher; Wogsland; Yockim

ABSENT AND NOT VOTING: Naaden; Scherber

SB 2277 passed and the title was agreed to.

REPORT OF CONFERENCE COMMITTEE

SEN. W. STENEHJEM MOVED that the conference committee report on Engrossed SB 2440 be adopted, which motion prevailed.

Engrossed SB 2440, as amended, was placed on the Eleventh order.

SECOND READING OF SENATE BILL

SB 2440: A BILL for an Act to create and enact a new subsection to section 49-21-02.1 and three new sections to chapter 49-21 of the North Dakota Century Code, relating to the regulation of interexchange telecommunications companies, the authority of the public service commission, refunds, and quality of service; and to amend and reenact sections 49-21-01, 49-21-01.1, 49-21-01.2, 49-21-01.3, 49-21-01.4, 49-21-01.6, 49-21-02.2, 49-21-04, 49-21-06, 49-21-07, 49-21-09, and 49-21-22 of the North Dakota Century Code, relating to the regulation of telecommunications companies.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 46 YEAS, 1 NAY, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

YEAS: Andrist; Bowman; DeMers; Dotzenrod; Evanson; Freborg; Goetz; Graba; Grindberg; 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; Schoenwald; Solberg; Stenehjerm, B.; Stenehjerm, W.; Streibel; Tallackson; Tennefos; Thane; Tomac; Traynor; Urlacher; Wogsland; Yockim

NAYS: Heinrich

ABSENT AND NOT VOTING: Naaden; Scherber

SB 2440 passed and the title was agreed to.

REPORT OF CONFERENCE COMMITTEE

SEN. SCHERBER MOVED that the conference committee report on Engrossed HB 1120 be adopted, which motion prevailed.

Engrossed HB 1120, as amended, was placed on the Fourteenth order.

SECOND READING OF HOUSE BILL

HB 1120: A BILL for an Act to amend and reenact section 15-40.2-08 of the North Dakota Century Code, relating to determination of the school district liable for tuition in cases of child placements for purposes other than education; and to repeal section 15-40.2-08.1 of the North Dakota Century Code, relating to placement of handicapped students for reasons other than education.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 47 YEAS, 0 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

YEAS: Andrist; Bowman; DeMers; Dotzenrod; 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; Schoenwald; Solberg; Stenehjerm, B.; Stenehjerm, W.; Streibel; Tallackson; Tennefos; Thane; Tomac; Traynor; Urlacher; Wogsland; Yockim

ABSENT AND NOT VOTING: Naaden; Scherber

HB 1120 passed and the title was agreed to.

REPORT OF CONFERENCE COMMITTEE

SEN. SCHERBER MOVED that the conference committee report on HB 1178 be adopted, which motion prevailed.

REPORT OF CONFERENCE COMMITTEE

SEN. HEINRICH MOVED that the conference committee report on Engrossed HB 1463 be adopted, which motion prevailed.

Engrossed HB 1463, as amended, was placed on the Fourteenth order.

SECOND READING OF HOUSE BILL

HB 1463: A BILL for an Act relating to job protection for employees who report illegal activities; and to provide a penalty.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 47 YEAS, 0 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

YEAS: Andrist; Bowman; DeMers; Dotzenrod; 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; Schoenwald; Solberg; Stenehjem, B.; Stenehjem, W.; Streibel; Tallackson; Tennefos; Thane; Tomac; Traynor; Urlacher; Wogsland; Yockim

ABSENT AND NOT VOTING: Naaden; Scherber

HB 1463 passed and the title was agreed to.

REPORT OF CONFERENCE COMMITTEE

SEN. GRABA MOVED that the conference committee report on Engrossed HB 1393 be adopted, which motion prevailed.

REPORT OF CONFERENCE COMMITTEE

SEN. KINNOIN MOVED that the conference committee report on SCR 4031 be adopted, which motion prevailed.

SCR 4031, as amended, was placed on the Eleventh order.

SECOND READING OF SENATE CONCURRENT RESOLUTION

SCR 4031: A concurrent resolution directing the Legislative Council to study problems relating to the use of contracts for the sale of agricultural commodities.

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

SCR 4031 was declared adopted and the title was agreed to.

REPORT OF CONFERENCE COMMITTEE

SEN. TOMAC MOVED that the conference committee report on Engrossed SB 2101 be adopted, which motion prevailed.

Engrossed SB 2101, as amended, was placed on the Eleventh order.

SECOND READING OF SENATE BILL

SB 2101: A BILL for an Act to create and enact a new section to chapter 47-30.1 of the North Dakota Century Code, relating to making confidential the audit records under the uniform abandoned property act; and to provide a penalty.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 47 YEAS, 0 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

YEAS: Andrist; Bowman; DeMers; Dotzenrod; 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; Schoenwald; Solberg; Stenehjem, B.; Stenehjem, W.; Streibel; Tallackson; Tennefos; Thane; Tomac; Traynor; Urlacher; Wogsland; Yockim

ABSENT AND NOT VOTING: Naaden; Scherber

SB 2101 passed and the title was agreed to.

MOTION

SEN. MATHERN MOVED that SB 2384 be rereferred to the **Industry, Business and Labor Committee**, which motion prevailed. Pursuant to Sen. Mathern's motion, SB 2384 was rereferred.

MOTION

SEN. MATHERN MOVED that the Senate stand in recess until 12:30 p.m., which motion prevailed.

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

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

MR. SPEAKER: The Senate has passed unchanged: HB 1274, HB 1514.

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

MR. SPEAKER: The Senate has passed and your favorable consideration is requested on: SB 2540.

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

MR. SPEAKER: The Senate has amended, subsequently passed, and the emergency clause carried: HB 1389.

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

MR. SPEAKER: The Senate has adopted the conference committee report and subsequently failed to pass: SB 2287.

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

MR. SPEAKER: The Senate has adopted the conference committee report and subsequently passed: HB 1104, HB 1126.

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

MR. SPEAKER: The Senate has adopted the conference committee report and subsequently passed: SB 2083, SB 2028, SB 2096, SB 2227, SB 2295, SB 2367, SB 2441.

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

MR. SPEAKER: The Senate has adopted the conference committee report and subsequently passed, and the emergency clause carried: SB 2088.

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

MR. SPEAKER: The Senate has amended, subsequently passed, and the emergency clause carried: HB 1005.

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

MR. SPEAKER: The Senate has amended and subsequently passed: HB 1001, HB 1002, HB 1003.

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

MR. SPEAKER: The Senate has adopted the conference committee report and subsequently passed: SB 2490, SB 2277, SB 2440, SB 2101.

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

MR. SPEAKER: The Senate has adopted the conference committee report on HB 1393, HB 1178.

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

MR. SPEAKER: The Senate has adopted the conference committee report and subsequently passed: SCR 4031.

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

MR. SPEAKER: The Senate has adopted the conference committee report and subsequently passed: HB 1463, HB 1383, HB 1120.

REPORT OF STANDING COMMITTEE

HB 1413, as engrossed: Appropriations Committee (Sen. Tallackson, Chairman) recommends **DO PASS** (9 YEAS, 4 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1413 was placed on the Fourteenth order on the calendar.

SECOND READING OF HOUSE BILL

HB 1413: A BILL for an Act to create and enact a new section to chapter 15-27.6 of the North Dakota Century Code, relating to limiting the consortia that may participate in the school district boundary restructuring program; and to amend and reenact sections 15-27.6-05 and 15-27.6-11 of the North Dakota Century Code, relating to planning grants and supplemental payments for school district consortia.

ROLL CALL

The question being on the final passage of the bill, which has been read, the roll was called and there were 25 YEAS, 18 NAYS, 0 EXCUSED, 6 ABSENT AND NOT VOTING.

YEAS: DeMers; Dotzenrod; Evanson; Heinrich; Jerome; Keller; Kelly; Kelsh; Kinnoin; Krauter; Langley; Lindaas; Lips; Marks; Mathern; Maxson; Mushik; O'Connell; Redlin; Robinson; Schoenwald; Tallackson; Thane; Wogsland; Yockim

NAYS: Andrist; Bowman; Freborg; Goetz; Grindberg; Holmberg; Krebsbach; Lindgren; Nalewaja; Nelson; Nething; Sand; Solberg; Stenehjem, B.; Stenehjem, W.; Streibel; Traynor; Urlacher

ABSENT AND NOT VOTING: Graba; Mutch; Naaden; Scherber; Tennefos; Tomac

HB 1413 passed and the title was agreed to.

REPORT OF CONFERENCE COMMITTEE

SB 2394, as engrossed: Your conference committee (Sens. Jerome, Mathern, Nalewaja and Reps. Rydell, Svedjan, Cleary) recommends that the **HOUSE RECEDE** from the House amendments on SJ pages 1032-1033, adopt amendments as follows, and place SB 2394 on the Seventh order:

That the House recede from its amendments as printed on pages 1032-1033 of the Senate Journal and pages 1086-1088 of the House Journal and that Engrossed Senate Bill No. 2394 be amended as follows:

Page 1, line 5, replace "subsection" with "subsections" and after "1" insert "and 4"

Page 2, line 13, overstrike "a."

Page 2, overstrike line 15

Page 2, line 16, overstrike ",____,"

Page 2, line 19, overstrike "hereby" and after "declare" insert "on (month, day, year)"

Page 3, line 7, before the "I" insert "a."

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, nutrition would be physically harmful or would cause unreasonable physical pain, or 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, hydration would be physically harmful or would cause unreasonable physical pain, or 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 21, after "nutrition" insert "or hydration"

Page 4, line 23, replace the underscored comma with "or"

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

Page 4, remove lines 25 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 7, line 27, replace the underscored colon with "the"

Page 7, line 28, remove "a. The"

Page 8, line 2, replace "unreasonably painful" with "would cause unreasonable physical pain" and replace "; or" with an underscored period

Page 8, remove lines 3 and 4

Page 9, line 1, replace "Subsection" with "Subsections" and after "1" insert "and 4"

Page 9, line 2, replace "is" with "are"

Page 9, after line 6, insert:

4. This chapter creates no presumption concerning the intention of an individual who has revoked or has not executed a declaration with respect to the use, withholding, or withdrawal of life-prolonging treatment, nutrition, or hydration in the event of a terminal condition.

Renumber accordingly

Engrossed SB 2394 was placed on the Seventh order of business on the calendar.

REPORT OF CONFERENCE COMMITTEE

SEN. JEROME MOVED that the conference committee report on Engrossed SB 2394 be adopted, which motion prevailed.

Engrossed SB 2394, as amended, was placed on the Eleventh order.

SECOND READING OF SENATE BILL

SB 2394: A BILL for an Act to create and enact a new section to chapter 23-06.4 of the North Dakota Century Code, relating to conditions for withdrawing, withholding, or administering nutrition or hydration; and to amend and reenact subsections 1 and 3 of section 23-06.4-03, subsection 2 of section 23-06.4-05, section 23-06.4-07, subsections 1 and 4 of section 23-06.4-11, and section 23-06.4-14 of the North Dakota Century Code, relating to declarations concerning life-prolonging treatment and management of qualified patients.

ROLL CALL

The question being on the final passage of the amended bill, which has been

read, the roll was called and there were 41 YEAS, 2 NAYS, 0 EXCUSED, 6 ABSENT AND NOT VOTING.

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

NAYS: Stenehjem, B.; Urlacher

ABSENT AND NOT VOTING: Graba; Mutch; Naaden; Scherber; Tennefos; Tomac

SB 2394 passed and the title was agreed to.

APPOINTMENT OF CONFERENCE COMMITTEE

SEN. TALLACKSON MOVED that the President appoint a committee of three to act with a like committee from the House as a Conference Committee on HB 1020, which motion prevailed.

THE PRESIDENT APPOINTED as a Conference Committee on HB 1020: Sens. Redlin, DeMers, Goetz.

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, Seventh, Twelfth, and Sixteenth orders of business and at the conclusion of those orders, the Senate stand adjourned until 9:00 a.m., Monday, April 12, 1993, which motion prevailed.

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

CAROL SIEGERT, Secretary