

## JOURNAL OF THE SENATE - SPECIAL SESSION

## Fifty-third Legislative Assembly

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Bismarck, June 29, 1994

The Senate convened at 10:00 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 DeMers, Graba, and Holmberg.

A quorum was declared by the President.

## COMMUNICATION FROM SECRETARY OF STATE ALVIN A. JAEGER

June 28, 1994

In this Executive Order, Edward T. Schafer, Governor of the State of North Dakota, does convene the 53rd North Dakota Legislative Assembly into Special Session on Wednesday, June 29, 1994, at 10:00 a.m.

Since adjournment of the 53rd Legislative Assembly on April 24, 1993, this office has not issued any new Certificates of Election for any one of the positions in the Senate.

## EXECUTIVE ORDER 1994-05

I, Edward T. Schafer, Governor of the State of North Dakota, by the authority vested in me, do hereby convene the North Dakota Legislative Assembly into special session on Wednesday, June 29, 1994, at 10:00 a.m., in the Legislative Chambers.

My decision to do so is made upon the following basis and for the following reasons:

1. The Governor is vested with the executive power pursuant to Article V, Section 1 of the North Dakota Constitution;
2. The Governor is vested with the specific authority to call a special session of the Legislative Assembly pursuant to Article V, Section 5 of the North Dakota Constitution; and
3. A special session of the Legislative Assembly is necessary in order to amend chapter 40-57.1, North Dakota Century Code (N.D.C.C.) to allow a property tax exemption for large industrial projects, to amend chapter 57-39.2, N.D.C.C. to allow sales tax exemptions for building material used in agricultural processing plants and for computerized office equipment necessary to operate equipment already exempt, and for such other related purposes as the Legislature may deem appropriate. This action is necessary to encourage a proposed corn processing facility to locate in North Dakota.

Executed at Bismarck, North Dakota, this 16th day of June 1994.

ATTEST:

Alvin A. Jaeger  
Secretary of State

## COMMUNICATION FROM GOVERNOR EDWARD T. SCHAFER

June 20, 1994

Pursuant to NDCC 15-10-05, I have nominated Jeanette M. Satrom of Valley City, North Dakota, to serve on the State Board of Higher Education, and to succeed E. Gene Martin, whose term expires July 1, 1994.

Jeanette's name was submitted in accordance with NDCC 15-10-02, is a graduate of the University of North Dakota, and meets the requirements of NDCC Chapter 15-10. Therefore, I ask the Senate to consider confirming Jeanette Satrom for that position.

Thank you for your consideration.

## REPORT OF PROCEDURAL COMMITTEE

MADAM PRESIDENT: Your procedural Committee on Committees (Sen. Wogsland, Chairman) respectfully submit the following names for your Select Committee to consider the Governor's nomination for the State Board of Higher Education: Sens. Scherber, Robinson, Heinrich, Jerome, Goetz, Freborg and Mutch.

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

## MOTION

SEN. MATHERN MOVED that the Senate stand in recess until 1:30 p.m., which motion prevailed.

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

## REPORT OF PROCEDURAL COMMITTEE

MADAM PRESIDENT: Your procedural Rules Committee (Sen. Kelly, Chairman) recommends that the Senate and the Joint Rules of the Fifty-third Legislative Assembly, as adopted on Thursday, December 10, 1992, and published in the 1993 Senate and House Rules and Committees books, be amended as follows for the extraordinary session of the Fifty-third Legislative Assembly and that the reading of this report be dispensed with:

SECTION 1. AMENDMENT. Subsection 2 of Senate Rule 201 is amended as follows:

2. Preserve order and decorum. In case of disorderly conduct or disturbance in the galleries or the corridors, the President or the chairman of the Committee of the Whole may order the galleries or corridors to be cleared.

SECTION 2. AMENDMENT. Subsection 4 of Senate Rule 318 is amended as follows:

4. The following questions require a two-thirds vote of the members-elect of the Senate:
  - a. Initiated and referred measures amended or repealed within seven years after enactment or approval, as provided in Section 8, Article III, of the Constitution and Senate Rule 338.
  - b. Emergency clauses, as provided in Section 13, Article IV, of the Constitution.
  - c. Adoption of propositions of a divided question if the division would require a two-thirds vote of the members-elect, as provided in Senate Rule 319.
  - d. Reconsideration after a clincher motion, as provided in Senate Rule 347.

- e. Reconsideration after the next legislative day or after a previous motion to reconsider, as provided in Senate Rule 346.
- f. ~~Second reading same day as report, as provided in Senate Rule 336.~~
- g. Suspension of requirement that copies of amendments be distributed before acted on, as provided in Senate Rule 601.
- ~~h. g.~~ Suspension of the rules, as provided in Senate Rule 324.
- ~~i. h.~~ Vetoed measures, reconsideration, as provided in Section 9, Article V, of the Constitution.

**SECTION 3. AMENDMENT.** Senate Rule 328 is amended as follows:

**328. BILLS AND RESOLUTIONS REFERRED.** Upon the first reading of a bill or concurrent resolution, the President shall refer it to an appropriate standing committee, unless the Senate, by motion, decides to refer it to a select or other standing committee, or to the Committee of the Whole.

**SECTION 4. AMENDMENT.** Senate Rule 336 is amended as follows:

**336. SECOND READING.** No bill requiring the approval of the Governor, no resolution proposing a change in the Constitution of North Dakota, and no resolution ratifying an amendment to the Constitution of the United States may be referred, except in the case of a bill or resolution that is prefiled pursuant to Senate Rule 401, or amended until it has been read; nor may any such bill or resolution have its second reading and final passage until at least one day after ~~it has been reported to the Senate by the committee to which it was referred, provided that any such bill or resolution may have its second reading and final passage on the same day it is reported back when so ordered by two thirds of the members elect of the Senate~~ its first reading.

**SECTION 5. AMENDMENT.** Senate Rule 345 is amended as follows:

**345. NOTICE OF INTENTION TO RECONSIDER.** ~~Except on the thirty third legislative day and on or after the fiftieth legislative day, when~~ When notice of intention to move the reconsideration of any bill or resolution ~~must be~~ is given by a member, the Secretary of the Senate shall retain the bill or resolution until the end of the ~~next~~ legislative day, unless the bill or resolution has previously been disposed of. When a member in explaining the member's vote states to the Senate that the member's vote is for the purpose of reconsideration, that statement is notice of such intention.

**SECTION 6. AMENDMENT.** Subsection 1 of Senate Rule 401 is amended as follows:

1. Any bill or resolution that conforms to statutory requirements and these rules, ~~within the number and time prescribed,~~ may be introduced by any member, standing committee, or the Legislative Council, by filing the bill or resolution with the Secretary of the Senate, who shall number consecutively each bill or resolution.

**SECTION 7. AMENDMENT.** Subsections 1 and 2 of Senate Rule 402 are amended as follows:

1. No bill ~~may be introduced after the fifteenth legislative day and no member other than the Majority and Minority Leaders may introduce more than three bills as prime sponsor after the tenth legislative day, nor may any or~~ resolution, ~~except those resolutions hereinafter provided for,~~ may be introduced after the eighteenth legislative day, except upon approval of the Legislative

Council or a majority of the Delayed Bills Committee or upon two-thirds vote of the Senate.

2. No bill introduced at the request of an executive agency or the Supreme Court may be introduced ~~after December tenth before the ensuing regular session,~~ except upon approval of a majority of the Delayed Bills Committee.

SECTION 8. AMENDMENT. Senate Rule 403 is amended as follows:

403. DELAYED BILLS AND RESOLUTIONS. The Delayed Bills Committee shall receive from the Secretary all bills and resolutions offered for introduction ~~after the time for introduction as limited by Senate Rule 402,~~ and, on the same or the next legislative day after receiving such bill or resolution, shall report to the Senate its conclusion whether the introduction of the bill or resolution should be allowed. If a majority of the committee favors introduction, the bill or resolution may be introduced. All such bills and resolutions must bear the name or names of the original sponsors.

SECTION 9. AMENDMENT. Senate Rule 504 is amended as follows:

504. MEETING OF COMMITTEES.

1. ~~The Appropriations Committee meets on Monday, Tuesday, Wednesday, Thursday, and Friday of each week.~~
2. ~~The three day committees meet on Monday, Tuesday, and Wednesday of each week.~~
3. ~~The two day committees meet on Thursday and Friday of each week.~~
4. ~~Any committee that meets on Wednesday and which has a member who is also a member of the Joint Constitutional Revision Committee may not meet during the time the Joint Constitutional Revision Committee meets. Any committee that meets on Wednesday may adjust its schedule to allow time for committees without regularly scheduled meeting times to meet.~~
5. The chairman of any committee, or a majority of that committee, may call meetings at times and on ~~other~~ days as deemed necessary.

SECTION 10. Senate Rule 510 is created as follows;

510. COMMITTEE OF THE WHOLE. When the Senate resolves itself into the Committee of the Whole, the President shall appoint the President Pro Tempore to preside. The rules of the Senate must be observed in the Committee of the Whole insofar as they may be applicable, except the minutes must be kept by a committee clerk as provided by Senate Rule 506 and the time of speaking may be limited only by motion. Upon adoption of a motion to rise, the report of the Committee of the Whole must be presented to the Senate as are other committee reports.

SECTION 11. AMENDMENT. Senate Rule 601 is amended as follows:

601. REPORT OF COMMITTEES.

1. The report of a committee must provide for one or more of the following recommendations with respect to the bill or resolution: do pass, do not pass, be amended, be rereferred to another committee, or be placed on the calendar without recommendation.
2. a. If the committee report is for amendment, the proposed amendment must be placed on the calendar ~~for the next legislative day~~ on the sixth order of business.

- b. No action may be taken on an amendment until a verbatim copy of the amendment has been distributed to each member; provided, that on a two-thirds vote of the members-elect, this may be suspended, and the amendment acted on immediately after the report of the committee.
  - c. If the amendment is adopted by a majority vote of the members present, the amended measure must then be placed on the calendar ~~for the next legislative day~~ under the applicable order of business for second reading and final passage except as provided in subdivision e ~~or g~~.
  - d. If the amendment is rejected, the measure without amendment must be placed on the calendar ~~for the next legislative day~~ under the applicable order of business for second reading and final passage except as provided in subdivision e ~~or g~~.
  - e. If the committee report is for amendment and then rereferral to another committee, the measure must be rereferred to the appropriate committee after adoption or rejection of the amendment. If, after adoption or rejection of the amendment, a measure is subject to rereferral under Senate Rule 329, the measure must be rereferred to the Appropriations Committee, regardless of whether the report provides for rereferral.
  - f. If the committee report does not recommend rereferral to another committee but recommends that the measure pass, do not pass, or makes no recommendation, the measure must be placed on the calendar ~~for the next legislative day~~ under the applicable order of business for second reading and final passage ~~except as provided in subdivision g~~.
  - g. On motion ~~Except as provided in subdivision e~~, a measure must be placed on the calendar for second reading and final passage immediately after action is taken on the amendment. ~~After the thirty second legislative day all Senate bills, and after the fifty fifth legislative day all measures, must be placed on the calendar for second reading and final passage immediately after action is taken on the amendment. A measure placed on the calendar under this subdivision may be acted on immediately after placement on the calendar.~~
  - h. A report for amendment must be approved as to form and style by the Legislative Council staff. When a report for amendment is received by the Secretary without a notation that the report was approved as to form and style by the Legislative Council staff, the Secretary immediately shall cause that report to be delivered to the Legislative Council office with a request that the report be examined and receive a notation approving its form and style.
3. If the committee report is divided as provided in Senate Rule 602, and one report is for amendment with the other that the bill do not pass, the reports must be placed on the calendar ~~for the next legislative day~~ on the seventh order of business. The President shall receive and announce a motion that the report of the minority be substituted for the majority committee report. If a "do not pass" report is adopted under this subsection, the measure must be placed on the calendar on the eleventh or fourteenth order of business.
  4. During the fifth order of business, the Secretary shall announce that committee reports have been received, if such is the case, and shall list the bill or resolution number, or other identifier, and state the accompanying committee recommendation.

5. If the committee report is divided pursuant to Senate Rule 602, the Secretary shall announce the majority report and the minority report, or reports, as well.
6. ~~The~~ If practicable, the Secretary shall ensure that the daily calendar contains appropriate notation of committee reports.

**SECTION 12. AMENDMENT.** Joint Rule 202 is amended as follows:

**202. RECEDING BEFORE CONFERENCE.** Either house may recede from any subject matter of difference existing between the two houses at any time before a conference whether the papers on which difference has arisen are before the house receding formally or informally, and a majority governs, except in case where two-thirds are required by the Constitution, and the question having been put and lost, may ~~not~~ be again put the same day, and the consideration thereof in other respects is regulated by the rules of the respective houses.

**SECTION 13. AMENDMENT.** Joint Rule 206 is amended as follows:

**206. CONSENT CALENDAR.**

1. Each standing committee may report an uncontested amendment, bill, or resolution, or a contested resolution out of committee and may include in its report a recommendation for placement on the consent calendar.
2. As used in this rule, "uncontested amendment, bill, or resolution" means any amendment, bill, or resolution, except an amendment or a bill providing an appropriation, which receives a do pass or do pass as amended recommendation from the committee of referral, by unanimous vote of the members present provided a quorum is present. As used in this rule, "contested resolution" means any resolution that receives a do pass or do pass as amended recommendation from the committee of referral, by any vote other than a unanimous vote of the members present provided a quorum is present.
3. Following the presentation of a committee report recommending placement on the consent calendar, all amendments, bills, or resolutions recommended by the committee for placement on the consent calendar must be placed on the consent calendar.
4. A resolution directing a Legislative Council study which receives a do pass or do pass as amended recommendation from the committee of referral must be placed on the consent calendar, regardless of whether the committee report recommends placement on the consent calendar.
5. Any consent calendar amendment, bill, or resolution that is amended from the floor must be taken off the consent calendar and must be placed on the regular calendar.
6. Upon objection of any member to the placement or retention of any uncontested amendment, bill, or resolution, any contested resolution, or any Legislative Council study resolution on the consent calendar, the bill or resolution must be taken off the consent calendar and must be placed on the regular calendar.
7. ~~No item on the consent calendar may be considered for adoption on the same legislative day it is placed on the consent calendar.~~

**SECTION 14. AMENDMENT.** Joint Rule 208 is amended as follows:

**208. INTRODUCTION OF EXECUTIVE DEPARTMENT AND SUPREME COURT BILLS.** Each executive agency and the Supreme Court shall file with the Legislative Council those bills they wish to have introduced ~~no later than December tenth before the ensuing regular session. Each.~~ Upon approval by the appropriate Delayed Bills Committee, each bill is deemed introduced by the standing committee of the House or Senate with general jurisdiction over the subject matter of the bill. The Legislative Council shall number and deliver those bills to the President of the Senate or the Speaker of the House for recording. Each bill must be identified by noting the name of the agency or the court under the name of the sponsoring committee. The identification may include the names of not more than five entities authorized to file bills under this rule.

**SECTION 15. AMENDMENT.** Subsection 4 of Joint Rule 501 is amended as follows:

4. a. Every fiscal note must be prepared in triplicate and must be returned to the Legislative Council or the committee chairman making the request, whichever the case may be, not later than ~~five days~~ one day from the date of the request.
- b. One copy of the fiscal note must be attached to the original bill or resolution, one copy must be filed with the Bill Clerk of the house wherein the bill or resolution originated, and one copy must be filed in the Legislative Council office.

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

#### MOTION

SEN. MATHERN MOVED that the Senate resolve itself into a Confirmation Session, which motion prevailed.

#### REPORT OF SELECT COMMITTEE

MADAM PRESIDENT: Your Select Committee (Sen. Scherber, Chairman) appointed to consider the nomination for the State Board of Higher Education, do advise and consent to the appointment of: Jeanette Satrom

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

#### ROLL CALL

The question being "will the Senate advise and consent to the nomination of Jeanette Satrom for the State Board of Higher Education" and the roll was called and there were 46 YEAS, 0 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

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

ABSENT AND NOT VOTING: DeMers; Graba; Holmberg

The Senate advises and consents to the nomination of Jeanette Satrom for the State Board of Higher Education.

#### MOTION

SEN. MATHERN MOVED that the Confirmation Session be dissolved, which motion prevailed.

#### MOTION

SEN. MATHERN MOVED that the Senate stand in recess until 2:30 p.m., which motion prevailed.

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

**REPORT OF PROCEDURAL COMMITTEE**

**MADAM PRESIDENT:** Your procedural Employment Committee (Sen. Kelsh, Chairman) has approved the attached list of employees for employment during the 1994 Special Session.

1993 Special Session Senate Employees

Secretary of the Senate	Carol Siegert
Desk Reporter	Sally York
Bill Clerk	Nancy Ludwig
Sergeant-at-Arms	Kevin Urness
Assistant Sergeant-at-Arms	David Hougen
Chief Page and Bill Book Clerk	Althea Yantzer
Page and Bill Book Clerk	Ruby Stadick
Secretary to the Majority Leader	Sandi Kershaw
Secretary to the Minority Leader	Renae Doan
Committee Clerk	Jolene Christenson
Committee Clerk	Colleen Popelka

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

**REPORT OF DELAYED BILLS COMMITTEE**

**MADAM PRESIDENT:** Your Delayed Bills Committee (Sen. Schoenwald, Chairman) has examined and has cast a unanimous ballot in favor of a concurrent resolution designating Senate and House employees and fixing their compensation for the special session of the Fifty-third Legislative Assembly.

The resolution will be SCR 4078.

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

**FIRST READING OF SENATE CONCURRENT RESOLUTION**

Sen. Kelsh and Rep. Rydell introduced:

(Approved by the Delayed Bills Committee)

**SCR 4078:** A concurrent resolution designating Senate and House employees and fixing their compensation for the special session of the Fifty-third Legislative Assembly.

Was read the first time.

**MOTION**

**SEN. KELSH MOVED** that the rules be suspended, that SCR 4078 not be printed, not be referred to committee, be read in title only, be printed in the Journal, and placed on the calendar for second reading and final passage, which motion prevailed.

Sen. Kelsh and Rep. Rydell introduced:

(Approved by the Delayed Bills Committee)

**SENATE CONCURRENT RESOLUTION NO. 4078**

A concurrent resolution designating Senate and House employees and fixing their compensation for the special session of the Fifty-third Legislative Assembly.

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

That for the special session of the Fifty-third Legislative Assembly, the following persons are employed and appointed as employees of the Senate and House and are to be paid the daily wages opposite their respective names in accordance with their positions.

## SENATE

Carol Siegert, Secretary of the Senate	\$95.00
Sally York, Desk Reporter	89.00
Nancy Ludwig, Bill Clerk	74.00
Kevin Urness, Sergeant-at-Arms	74.00
Sandi Kershaw, Secretary to the Majority Leader	80.00
Renaë Doan, Secretary to the Minority Leader	80.00
Jolene Christenson, Committee Clerk	68.00
Colleen Popelka, Committee Clerk	68.00
David Hougen, Assistant Sergeant-at-Arms	58.00
Althea Yantzer, Chief Page and Bill Book Clerk	65.00
Ruby Stadick, Page	58.00

## HOUSE

Roy Gilbreath, Chief Clerk	\$95.00
Barbara Middaugh, Desk Reporter	89.00
Jerome Moszer, Sergeant-at-Arms	74.00
Mavis Patchen, Secretary to the Majority Leader	80.00
Verlaine Gullickson, Secretary to the Minority Leader	80.00
Darlene Clausnitzer, Committee Clerk	68.00
Janice Stein, Committee Clerk	68.00
Gloria Olson, Chief Page	65.00
Billie Brunsoman, Sergeant-at-Arms/Page	58.00
Bernice Clark, Sergeant-at-Arms/Page	58.00
Becky Haakenson, Sergeant-at-Arms/Page	58.00
Brenda Huff, Sergeant-at-Arms/Page	58.00
Hella Keller, Sergeant-at-Arms/Page	58.00
Peggy Puetz, Information Desk Attendant	58.00

BE IT FURTHER RESOLVED, that for the special session of the Fifty-third Legislative Assembly each employee of the Fifty-third Legislative Assembly is entitled to any additional per day compensation as was granted by the Fifty-third Legislative Assembly during the regular session of the Legislative Assembly; and

BE IT FURTHER RESOLVED, that legislative employees are entitled to receive necessary travel, meals, and lodging expense reimbursement, at the same rate and following the same guidelines as for other state employees, during the special legislative session; and

BE IT FURTHER RESOLVED, that the employment committees of the Senate and House may authorize compensation and expense reimbursement for legislative employees for necessary days before and after the special session; and

BE IT FURTHER RESOLVED, that if any employee resigns, is discharged, or for other reasons terminates employment, the compensation provided by this resolution for that employee ceases effective the last day of employment.

## SECOND READING OF SENATE CONCURRENT RESOLUTION

SCR 4078: A concurrent resolution designating Senate and House employees and fixing their compensation for the special session of the Fifty-third Legislative Assembly.

## ROLL CALL

The question being on the final adoption of the resolution, which has been read, the roll was called and there were 44 YEAS, 0 NAYS, 0 EXCUSED, 5 ABSENT AND NOT VOTING.

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

ABSENT AND NOT VOTING: DeMers; Graba; Holmberg; Mutch; Sand

SCR 4078 was declared adopted on a recorded roll call vote.

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**MOTION**

SEN. KELSH MOVED that the vote by which SCR 4078 passed be reconsidered and the motion to reconsider be laid on the table, which motion prevailed.

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

MR. SPEAKER: The Senate has passed and your favorable consideration is requested on: SCR 4078.

**MOTION**

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

**MOTION**

SEN. MATHERN MOVED that the Senate be on the Seventh and Ninth orders of business and at the conclusion of those orders, the Senate stand adjourned until 9:00 a.m., Thursday, June 30, 1994, which motion prevailed.

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

**CAROL SIEGERT, Secretary**