

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2230

2001 SENATE JUDICIARY

SB 2230

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2230

Senate Judiciary Committee

☐ Conference Committee

Hearing Date 1-22-01

Tape Number	Side A	Side B	Meter #
1	X		0.0- End
2	X		7.5-32.1
Committee Clerk Signature			

Senator Traynor opened the hearing on SB 2230: A BILL FOR AN ACT TO AMEND AND REENACT SECTIONS 16.1-13-10 AND 44-02-02 OF THE NORTH DAKOTA CENTURY CODE, RELATING TO FILLING A VACANCY IN A LEGISLATIVE OFFICE AND RESIGNATION OF A MEMBER OF THE LEGISLATIVE ASSEMBLY; TO REPEAL SECTION 16.1-13-11 OF THE NORTH DAKOTA CENTURY CODE, RELATING TO THE DUTY OF THE GOVERNOR WHEN A VACANCY OCCURS IN THE LEGISLATIVE ASSEMBLY; AND TO DECLARE AN EMERGENCY.

Senator Ken Solberg: (District 7; Supports) Explains proposed bill. States that the governor currently names replacements and it takes 60-90 days to get replacements . Gives example of Rep. Martin passing away and no one was named in his place to represent his district, so they were left out.

Senator Traynor: So affect of bill would be no special election, it would be a general election?

Also, what is significance of the "460 days"?

Senator Solberg: Yes sir (regarding elections) and I am not sure about 460 day significance question.

Senator Watne: Looking at page 2,#5... A lot of times we have people running for state offices and legislative offices. So take for example Wayne Stenehjem, he won Attorney General and resigned his Senate seat, then what?

Senator Solberg: This is a perfect example of how this bill would take care of those kinds of situations. Tells how bill process works again.

Senator Traynor: So this bill would provide a replacement within ten days and it keeps process within the legislative branch?

Senator Solberg: Yes, if time period runs over the ten days, the authority of legislative council has authority to choose a person.

Senator Bercler: Ten days in rural areas is not enough.

Senator Solberg: Ten days is plenty of time. Gives example of Colorado incident where proposed bill comes into play.

Senator Trenbeath: I have a concern surrounding the "resignation" area of bill.

Senator Solberg: I thought of that. There's the possibility of the abuse of law. It's tough to legislate morality. Hopefully there's enough common sense and morality.

Senator Dever: I know I would have a hard time finding a candidate in 10 days.

Senator Bercler: Let the record show that I believe this is a good bill in spirit, but throw this bill back into hands of district. I'm not comfortable with this bill.

Senator Solberg: This belongs in the legislative branch, not the executive branch. This does not disenfranchise, quite the contrary. This will keep your district party alive and viable because they won't know when they are going to be needed.

Senator Traynor: Let the record show that all three pages of the bill has been received by all committee members.

Senator Traynor: Should this bill pass, there would be no expense of special elections.

Senator Solberg: This is a good bill. I am not saying it's perfect, it may need a little work.

Corey Fong: (Represents Sec. Of State Office; Neutral) Clarifies questions involving significance of 460 days and also question asked earlier about running for multiple offices. For the record, all political party statutes involve 16.1-03.

Senator Traynor: From your experience, what is the time frame needed?

Cory Fong: Typically, you have to be looking out 14-16 days in advance in order to provide a ten day notice.

Senator Trenbeath: So 30 days would be better.

Senator Trenbeath: There seems to be a concern about "districting", it would be easy to exclude this out.

Corey Fong: I think that is covered somewhere.

Vern Thompson: (Executive Director for state Democratic party; Opposition) States the 10 day process is troubling because of the rural areas. Also says that we want to be sensitive to idea of chairman to the legislative council picking a replacement because he is not elected by citizens. The governor should be the one to pick. Regarding the emergency clause, until you know when the last redistricting is done- the clause should wait so that there will be no conflict. Also says that if you do not have special elections, it takes away from citizen's rights.

Senator Traynor: We are going to need some more information on this bill. We will reconvene this afternoon. Hearing closed.

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Senate Judiciary Committee

Bill/Resolution Number SB 2230

Hearing Date 1-22-01

Cory Fong: Clarifies questions regarding the bill. In the area of who makes the decision to pick the vacancy, the legislature or the Governor. Mentions the current century code regarding this process as it stands now. New language takes out the governor, however, this doesn't mean that the legislature couldn't include the governor. Regarding public notices, he stated that there is a 20 day requirement notice and a 10 day published notice for odd years. On even years there is no 10 day published notice requirement. A district meeting is held with in 15 days.

Senator Traynor: Doesn't it seem odd that the legislature is giving power to a party?

Cory Fong: This raises a good point. There will be changes state wide with political parties.

Senator Traynor closed the hearing on SB 2230.

Discussion followed.

SENATOR TRENBEATH MOVED TO DO PASS. SECONDED BY SENATOR WATNE.

VOTE INDICATED 5 YEAS, 2 NAYS, AND 0 ABSENT AND NOT VOTING.

SENATOR TRAYNOR VOLUNTEERED TO CARRY THE BILL.

Date: 1/22/01
Roll Call Vote #: 1

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2230

Senate	Judiciary	Committee
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☐ Subcommittee on _____
or
☐ Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Trenbeth Seconded By Watne

[illegible]

Total (Yes) 5 No ~~1~~ 2

Absent

Floor Assignment S. Traynor.

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
January 23, 2001 1:10 p.m.

Module No: SR-11-1430
Carrier: Traynor
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2230: Judiciary Committee (Sen. Traynor, Chairman) recommends DO PASS
(5 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2230 was placed on the
Eleventh order on the calendar.

2001 HOUSE JUDICIARY

SB 2230

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2230

House Judiciary Committee

☐ Conference Committee

Hearing Date 02-12-01

Tape Number	Side A	Side B	Meter #
TAPE I	x		301 to 6170
Committee Clerk Signature <i>Joan Diers</i>			

Minutes: Chairman DeKrey opened the hearing on SB 2230. Relating to filling a vacancy in a legislative office and resignation of a member of the legislative assembly; relating to the duty of the governor when a vacancy occurs in the legislative assembly and to declare an emergency.

Sen Ken Solberg: District 7 Rugby, introduced the bill. This bill allows for a procedure to fill a vacancy, this is explained in section one, lines 9 thru 24 page one and lines one thru 10 on page two of the engrossed bill.

Rep Grande: The amendments that were put on in the Senate, going from 10 to 21 days, could you explain that.

Sen Solbert: Rural people thought it might not be long enough time period, so the 21 days was a compromise.

Vice Chr Kretschmar: What would be the issue if the person was an independent?

Sen Solberg: The chairman of the Legislative council notifies the party, if there was none, then the chairman of the Legislative council would name the replacement.

Page 2

House Judiciary Committee

Bill/Resolution Number SB 2230

Hearing Date 02-12-01

Rep Eckre: Asks for further clarification for an independent candidate.

Sen Solberg: If there is an independent party it would go to them, yes.

Rep Eckre: If there is not a district committee for independents set up then it follows the course set up in here?

Sen Solberg: Yes.

Chairman DeKrey: If there are no further questions, thank you for appearing before the committee.

Sen Traynor: District 15, Devils Lake. As cosponsor of the bill, gives further explanations as to the bill.(also attached a letter for explanation)

Chairman DeKrey: What is to prevent a party from doing something to keep their party in power through resignation.

Sen Traynor: This bill would only fill out the term until the next election.

Chairman DeKrey: So when the election comes, someone would still be elected at the next election.

Sen Traynor: The letter explains about the vacancy.

Rep Klemin: What if there is less than 828 days remaining in the term.

Sen Traynor: Still goes to the appointment process and then only until the next general election.

Rep Klemin: Isn't that if there are more than 828 days?

Sen Traynor: Yes, that is right.

Rep Klemin: So if it is less, what happens then.

Sen Traynor: there is no special election, only a general election.

Rep Klemin: The appoint serves for the remainder of the term.

Sen Traynor: The answer is in one, two, three of the letter.

Rep Klemin: In the case of an independent candidate, you would go to the committee, I don't see that in the bill.

Sen Traynor: The language on page one applies.

Rep Klemin: Why would we want to mention that on line 4 on page 2.

Sen Traynor: When there is no executive committee of the independent party, that authority is limited, the chairman only acts if there is a default. This is especially important to the minority party.

Rep Delmore: North Dakota people like to elect, are we following the wishes of the people, if we appoint, I am not sure this is a popular bill for the voters of North Dakota.

Sen Traynor: I think the people appreciate being represented during the session.

Rep Delmore: Why not set up a special election as soon as we can.

Sen Traynor: You can amend.

Rep Mahoney: I agree with Rep Delmore, why is the governor being taken out of the loop?

Sen Traynor: There was a measure adopted by the people that says it is up to the legislature to find a procedure to fill a vacancy. The people already have decided to take the governor out of the picture.

Rep Mahoney: That measure doesn't say to remove the governor from the loop.

Sen Traynor: It was discussed at the Senate Judiciary Committee. It was decided that it was a legislative problem not an executive problem.

Rep Mahoney: If I had a vacancy in my district, the governor would be more answerable state wide.

Sen Traynor: On the other hand, the executive committee would be more sensitive to replacement.

Rep Klemin: Asked for clarification if a person is running for re-election and dies before the election, but before the 68 days, what happens then.

Sen Traynor: You just follow the bill.

Rep Klemin: The appointment would only fill out the term.

Sen Traynor: Yes.

Rep Klemin: Asked for further clarification on appointing.

Sen Traynor: The case in point happened in Missouri.

Rep Klemin: What happens then.

Sen Traynor: That person was appointed for two years.

Rep Klemin: If it is only for two years, then it gets that house out of whack.

Sen Traynor: The person would be elected for two years.

Rep Klemin: The balance of the term is for four years. Who do we vote for?

Sen Traynor: I don't know.

Rep Kingsbury: Asked for clarification when she gave an example, is this considered a special election or would it be put on a general election ballot.

Rep Delmore: Says a general election.

Sen Traynor: If time permits it would be a special election, because it would be a mid term election.

Rep Delmore: If this happens during the legislative session, when would they come in.

Sen Traynor: It says they have up to 21 days, but it could be sooner.

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House Judiciary Committee

Bill/Resolution Number SB 2230

Hearing Date 02-12-01

Rep Delmore: They could come in and be sworn in

Sen Traynor: That is right.

Rep Delmore: I agree with that part of the bill.

Vice Chr Kretschmar: Do you know of any other situations in our statutes, where someone who is not elected would appoint someone to an elective office.

Sen Traynor: I don't know.

Vice Chr Kretschmar: This system would be worked out, but we could have a party chairman, a non elected post, appointing a term for someone who would be elected.

Sen Traynor: No, I don't.

Vice Chr Kretschmar: Could a system be worked out, if we were not in session.

Sen Traynor: The critical time is the legislative session.

Chairman DeKrey: Thank you for appearing.

Rep Devlin: District 23, There is a section of the law to cover replacement when someone dies, not during the session. The people have said the Legislature should fill the vacancy and I would ask for your support.

Vice Chr Kretschmar: My bias is to elect. Would we work it out if during the interim that we would have an election, using the old system.

Rep Devlin: That certainly is a possibility, the major issue is the legislative session.

Vice Chr Kretschmar: Under current law, the US Senator is vacant, it allows the governor to appoint to the next state wide election. Could this appointment be the same way.

Rep Devlin: I don't have a problem with that.

Vice Chr Kretschmar: It would be the next state wide election.

Rep Devlin: My concern is that the primary has historical low voter turn out.

Vice Chr Kretschmar: That would be one way to increase the turn out.

Rep Devlin: It is something for this committee to consider.

Chairman DeKrey: Thank you for appearing in front of this committee.

John Bjorson: Legislative Council, I am appearing neutral on this bill. I would clarify a point, if the name is on the ballot and that person dies, there is a provision in the law to replace now.

Explains why the number 828 days was picked.

Rep Klemin: I don't understand the less then 828 days.

John Bjorson: Explains the issue.

Rep Klemin: How long would they serve.

John Bjorson: The remainder of the term, the longest would be two years.

Rep Klemin: I didn't see that in the bill.

John Bjorson: Explains again the terms of office.

Rep Klemin: I have a question on the independent candidate, on page 2 line 4, could you please clarify.

John Bjorson: It is correct that is not in the bill about an independent candidate with no executive committee, that is why the chairman of the legislative council would appoint.

Rep Delmore: Would you walk me thru the situation one more time.

John Bjorson: Explains the procedure, going thru step by step.

Vice Chr Kretschmar: Would you review the current law on legislative vacancies.

John Bjorson: Goes thru the bill and explains what is in current law.

Rep Mahoney: Gives an example and asks if he is understanding the bill.

Page 7

House Judiciary Committee

Bill/Resolution Number SB 2230

Hearing Date 02-12-01

John Bjorson: You are correct.

Rep Mahoney: Explains another point and asks if he is correct in his determination.

John Bjorson: You are correct.

Chairman DeKrey: If there are no further questions, thank you for appearing. If there is no one else wishing to testify, we will close the hearing on SB 2230.

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2230a

House Judiciary Committee

☐ Conference Committee

Hearing Date 02-14-01

Tape Number	Side A	Side B	Meter #
TAPE II		x	211 to 1900
Committee Clerk Signature <i>Joan Diers</i>			

Minutes: Chairman DeKrey called the committee to order on SB 2230.

COMMITTEE ACTION

Vice Chr Kretschmar moved the amendments 10197.0501 and 10197.0503 as one amendment, seconded by Rep Maragos.

COMMITTEE DISCUSSION

Chairman DeKrey asked for a voice vote on the amendments. Amendments carry. We now have the bill before us. Rep Maragos moved a DO PASS as amend, seconded by Vice Chr Kretschmar.

DISCUSSION

Chairman DeKrey: the clerk will call the roll on a DO PASS as amend motion on SB 2230. The motion passes with a vote of 10 YES, 4 NO and 1 ABSENT. Carrier Vice Chr Kretschmar.

10197.0501
Title.

Prepared by the Legislative Council staff for
Senator Traynor
February 9, 2001

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2230

Page 2, line 7, replace "four" with "eight" and replace "sixty" with "twenty-eight"

Renumber accordingly

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2230

Page 2, line 1, remove "executive committee of the"

Page 2, line 2, replace "executive" with "district"

Page 2, line 5, replace "executive" with "district"

Renumber accordingly

VK
2/15/01

HOUSE AMENDMENTS TO ENGROSSED SB 2230
Page 2, line 1, remove "executive committee of the"

HOUSE JUDICIARY 02-15-01

Page 2, line 2, replace "executive" with "district"

Page 2, line 5, replace "executive" with "district"

Page 2, line 7, replace "four" with "eight" and replace "sixty" with "twenty-eight"

Renumber accordingly

Date: 02-14-01
Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2230

House JUDICIARY Committee

☐ Subcommittee on _____
or
☐ Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass as amend

Motion Made By Rep Maragos Seconded By Vice Chr Kretschmar

Representatives	Yes	No	Representatives	Yes	No
CHR - Duane DeKrey	✓				
VICE CHR -- Wm E Kretschmar	✓				
Rep Curtis E Brekke	✓				
Rep Lois Delmore		✓			
Rep Rachael Disrud	✓				
Rep Bruce Eckre	✓				
Rep April Fairfield		✓			
Rep Bette Grande					
Rep G. Jane Gunter	✓				
Rep Joyce Kingsbury	✓				
Rep Lawrence R. Klemin	✓				
Rep John Mahoney		✓			
Rep Andrew G Maragos	✓				
Rep Kenton Onstad		✓			
Rep Dwight Wrangham	✓				

Total (Yes) 10 No 4

Absent 1

Floor Assignment VC Kretschmar

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2230, as engrossed: Judiciary Committee (Rep. DeKrey, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (10 YEAS, 4 NAYS, 1 ABSENT AND NOT VOTING). Engrossed SB 2230 was placed on the Sixth order on the calendar.

Page 2, line 1, remove "executive committee of the"

Page 2, line 2, replace "executive" with "district"

Page 2, line 5, replace "executive" with "district"

Page 2, line 7, replace "four" with "eight" and replace "sixty" with "twenty-eight"

Renumber accordingly

**COZ
NEXT**

NEXT FICHE

2001 TESTIMONY

SB 2230

CHAPTER 571

SENATE CONCURRENT RESOLUTION NO. 4021
(Senators Solberg, Grindberg, O'Connell)

LEGISLATIVE ASSEMBLY VACANCY FILLING

A concurrent resolution for the amendment of section 11 of article IV of the Constitution of North Dakota, relating to the filling of vacancies in the legislative assembly.

STATEMENT OF INTENT

This amendment would allow the legislative assembly to provide by law the method for filling vacancies in the legislative assembly to replace the requirement that the governor issues writs of election to fill vacancies.

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

That the following proposed amendment to section 11 of article IV of the Constitution of North Dakota is agreed to and must be submitted to the qualified electors of North Dakota at the primary election to be held in 2000, in accordance with section 16 of article IV of the Constitution of North Dakota.

SECTION 1. AMENDMENT. Section 11 of article IV of the Constitution of North Dakota is amended and reenacted as follows:

Section 11. The governor shall issue writs of election legislative assembly may provide by law a procedure to fill such vacancies as may occur occurring in either house of the legislative assembly.

Filed April 6, 1999

2230

CHAP

HOUSE CONCURRENT
(Representatives H.
(Senators G. Nelson)

RIGHT TO HUN

concurrent resolution to create and
Constitution of North Dakota, re

STATEME

The amendment would provide that hu
residents' heritage and will be preserv
regulation for the public good.

BE IT RESOLVED BY THE HOUSE
DAKOTA, THE SENATE CON

That the following proposed ne
North Dakota is agreed to and must b
Dakota at the general election to be h
article IV of the Constitution of North

SECTION 1. A new section
Dakota is created and enacted as follo

Hunting, trapping, and fishing
part of our heritage and will be forev
law and regulation for the public good

Filed April 6, 1999

**Official Ballot Language of
Constitutional Measure No. 4
Appearing on the June 13, 2000 Primary Election Ballot**

**CONSTITUTIONAL MEASURE NO. 4
(Senate Concurrent Resolution No. 4023, 1999 Session Laws,
Ch. 571)**

**This constitutional measure would amend section 11 of article IV of the
North Dakota Constitution.**

**This measure would allow the legislative assembly to provide, by law, a
procedure for filling vacancies occurring in the legislative assembly and
would replace the requirement that the governor call an election to fill such
vacancies.**

A "YES" vote means you approve the measure as summarized above.

A "NO" vote means you reject the measure as summarized above.

[Administrative and Licensing](#); [Business Information](#); [Central Indexing](#); [Elections](#); [Contact Information](#); [Links](#)

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Full Text of Constitutional Measure No. 4 Appearing on the June 13, 2000 Primary Election Ballot

CONSTITUTIONAL MEASURE NO. 4 SENATE CONCURRENT RESOLUTION NO. 4023

A concurrent resolution for the amendment of section 11 of article IV of the Constitution of North Dakota, relating to the filling of vacancies in the legislative assembly.

STATEMENT OF INTENT

This amendment would allow the legislative assembly to provide by law the method for filling vacancies in the legislative assembly to replace the requirement that the governor issues writs of election to fill vacancies.

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

That the following proposed amendment to section 11 of article IV of the Constitution of North Dakota is agreed to and must be submitted to the qualified electors of North Dakota at the primary election to be held in 2000, in accordance with section 16 of article IV of the Constitution of North Dakota.

SECTION 1. AMENDMENT. Section 11 of article IV of the Constitution of North Dakota is amended and reenacted as follows:

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16.1-01-10

ARTICLE IV

LEGISLATIVE BRANCH

Section 1. The senate must be composed of not less than forty nor more than fifty-four members, and the house of representatives must be composed of not less than eighty nor more than one hundred eight members. These houses are jointly designated as the legislative assembly of the state of North Dakota.

Section 2. The legislative assembly shall fix the number of senators and representatives and divide the state into as many senatorial districts of compact and contiguous territory as there are senators. The districts thus ascertained and determined after the 1990 federal decennial census shall continue until the adjournment of the first regular session after each federal decennial census, or until changed by law.

The legislative assembly shall guarantee, as nearly as is practicable, that every elector is equal to every other elector in the state in the power to cast ballots for legislative candidates. A senator and at least two representatives must be apportioned to each senatorial district and be elected at large or from subdistricts from those districts. The legislative assembly may combine two senatorial districts only when a single member senatorial district includes a federal facility or federal installation, containing over two-thirds of the population of a single member senatorial district, and may provide for the election of senators at large and representatives at large or from subdistricts from those districts.

Section 3. The legislative assembly shall establish by law a procedure whereby one-half of the members of the senate and one-half of the members of the house of representatives, as nearly as is practicable, are elected biennially.

Section 4. Senators and representatives must be elected for terms of four years.

Section 5. Each person elected to the legislative assembly must be, on the day of the election, a qualified elector in the district from which the member was chosen and must have been a resident of the state for one year immediately prior to that election.

Section 6. While serving in the legislative assembly, no member may hold any full-time appointive state office established by this constitution or designated by law. During the term for which elected, no member of the legislative assembly may be appointed to any full-time office which has been created, or to any office for which the compensation has been increased, by the legislative assembly during that term.

Section 7. The terms of members of the legislative assembly begin on the first day of December following their election.

The legislative assembly shall meet at the seat of government in the month of December following the election of the members thereof for organizational and orientation purposes as provided by law and shall thereafter recess until twelve noon on the first Tuesday after the third day in January or at such other time as may be prescribed by law but not later than the eleventh day of January.

No regular session of the legislative assembly may exceed eighty natural days during the biennium. The organizational meeting of the legislative assembly may not be counted as part of those eighty natural days, nor may days spent in session at the call of the governor or while engaged in impeachment proceedings, be counted. Days spent in regular session need not be consecutive, and the legislative assembly may authorize its committees to meet at any time during the biennium. As used in this section, a "natural day" means a period of twenty-four consecutive hours.

Neither house may recess nor adjourn for more than three days without consent of the other house.

Section 8. The house of representatives shall elect one of its members to act as presiding officer at the beginning of each organizational session.

Section 9. If any person elected to either house of the legislative assembly shall offer or promise to give his vote or influence, in favor of, or against any measure or proposition pending or proposed to be introduced into the legislative assembly, in consideration, or upon conditions, that any other person elected to the same legislative assembly will give, or will promise or assent to give, his vote or influence in favor of or against any other measure or proposition, pending or proposed to be introduced into such legislative assembly, the person making such offer or promise shall be deemed guilty of solicitation of bribery. If any member of the legislative assembly, shall give his vote or influence for or against any measure or proposition, pending or proposed to be introduced into such legislative assembly, or offer, promise or assent so to do upon condition that any other member will give, promise or assent to give his vote or influence in favor of or against any other such measure or proposition pending or proposed to be introduced into such legislative assembly, or in consideration that any other member hath given his vote or influence, for or against any other measure or proposition in such legislative assembly, he shall be deemed guilty of bribery. And any person, member of the legislative assembly or person elected thereto, who shall be guilty of either such offenses, shall be expelled, and shall not thereafter be eligible to the legislative assembly, and, on the conviction thereof in the civil courts, shall be liable to such further penalty as may be prescribed by law.

Section 10. No member of the legislative assembly, expelled for corruption, and no person convicted of bribery, perjury or other infamous crime shall be eligible to the legislative assembly, or to any office in either branch thereof.

Section 11. The legislative assembly may provide by law a procedure to fill vacancies occurring in either house of the legislative assembly.

Section 12. A majority of the members elected to each house constitutes a quorum. A smaller number may adjourn from day to day and may compel attendance of absent members in a manner, and under a penalty, as may be provided by law.

Each house is the judge of the qualifications of its members, but election contests are subject to judicial review as provided by law. If two or more candidates for the same office receive an equal and highest number of votes, the secretary of state shall choose one of them by the toss of a coin.

Each house shall determine its rules of procedure, and may punish its members or other persons for contempt or disorderly behavior in its presence. With the concurrence of two-thirds of its elected members, either house may expel a member.

Section 13. Each house shall keep a journal of its proceedings, and a recorded vote on any question shall be taken at the request of one-sixth of those members present. No bill may become law except by a recorded vote of a majority of the members elected to each house, and the lieutenant governor is considered a member-elect of the senate when the lieutenant governor votes.

No law may be enacted except by a bill passed by both houses, and no bill may be amended on its passage through either house in a manner which changes its general subject matter. No bill may embrace more than one subject, which must be expressed in its title; but a law violating this provision is invalid only to the extent the subject is not so expressed.

Every bill must be read on two separate natural days, and the readings may be by title only unless a reading at length is demanded by one-fifth of the members present.

No bill may be amended, extended, or incorporated in any other bill by reference to its title only, except in the case of definitions and procedural provisions.

**CHAPTER 54-03
LEGISLATIVE ASSEMBLY**

54-03-01. State legislative apportionment. Repealed by S.L. 1975, ch. 463, § 4.

54-03-01.1. Numbering legislative districts - Classes of senators to provide staggered terms. Repealed by S.L. 1975, ch. 463, § 4.

54-03-01.2. Legislative subdistricting - Methods. Repealed by S.L. 1975, ch. 463, § 4.

54-03-01.3. Election on petition - Ballot form - Vote required. Repealed by S.L. 1975, ch. 463, § 4.

54-03-01.4. Amendment to the Constitution of the United States - Results. Repealed by S.L. 1975, ch. 463, § 4.

54-03-01.5. Legislative apportionment requirements. A legislative apportionment plan based on any census taken after 1989 must meet the following requirements:

1. The senate must consist of forty-nine members and the house must consist of ninety-eight members.
2. Except as provided in subsection 3, one senator and two representatives must be apportioned to each senatorial district. Representatives may be elected at large or from subdistricts.
3. Multimember senate districts providing for two senators and four representatives are authorized only when a proposed single member senatorial district includes a federal facility or federal installation, containing over two-thirds of the population of the proposed single member senatorial district.
4. Legislative districts and subdistricts must be compact and of contiguous territory
5. Legislative districts must be as nearly equal in population as is practicable. Population deviation from district to district must be kept at a minimum. The total population variance of all districts, and subdistricts if created, from the average district population may not exceed recognized constitutional limitations.

54-03-01.6. State legislative apportionment. Repealed by S.L. 1981, ch. 804, § 9.

54-03-01.7. State legislative apportionment. Repealed by S.L. 1991 Sp., ch. 886, § 3.

54-03-01.8. Staggering of the terms of senators. A senator from an even-numbered district must be elected in 1992 for a term of four years and a senator from an odd-numbered district must be elected in 1994 for a term of four years. The senator from district forty-one must be elected in 1992 for a term of two years. A senator from a district in which there is another incumbent senator as a result of legislative redistricting must be elected in 1992 for a term of four years. Based on that requirement, districts six, ten, fourteen, twenty-eight, and thirty-six must elect senators in 1992.

54-03-01.9. Legislative redistricting. Each legislative district is entitled to one senator and two representatives. The legislative districts of the state are formed as follows:

1. District 1 consists of that part of the city of Williston and that part of Williston township in Williams County bound by a line commencing at the point where the west side of section 27 of township 154-101 intersects the shore of Lake Sakakawea, thence north on a straight line following section lines until its

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February 12, 2001

Honorable John T. Traynor
State Senator
Senate Chamber
State Capitol
Bismarck, ND 58505

Dear Senator Traynor:

This is in response to your request for a summary of the special election requirements to fill a legislative vacancy under Section 1 of Senate Bill No. 2230 and the proposed amendments this office has prepared for you which would amend that section.

The engrossed version of Senate Bill No. 2230 provides that if 460 days or more remain until the expiration of the term of office for that office, the individual appointed to fill the vacancy shall serve until a successor is elected at the next general election to serve for the remainder of the term of office for that office. Under that requirement, it is possible that a vacancy occurring after a member of the Legislative Assembly had served more than two years would have to be filled at the next general election. Under that scenario, the person elected would serve from the date of the general election until December 1 of that year. The proposed amendment provides that if 828 days or more remain until the expiration of the term of office for that office, the individual appointed will serve until a successor is elected at the next general election. The 828-day threshold is selected to allow for the following:

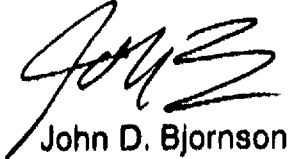
1. Approximately 30 days, from the earliest possible date of the general election to the end of the term of office (December 1);
2. Two years, or 730 days, until the midterm general election; and
3. Approximately 68 days to allow sufficient time to place a candidate's name on the general election ballot.

For example, if a vacancy occurred in February 2002 in a Senate seat in which the Senator was elected to a four-year term in November 2000, a person would be appointed to serve until a successor could be elected at the November 2002 election. However, if the vacancy occurred after August 24, 2002, no election would be held to fill the vacancy because there would not be sufficient time to complete the process of placing candidates' names on the ballot. Thus, the 828 threshold allows for sufficient time for

the selection of candidates for the general election during the middle of the term of office for a four-year term.

We hope this information is of assistance. Please feel free to contact this office if you have additional questions.

Sincerely,



John D. Bjornson
Counsel

JDB/JFB