

PROPOSED AMENDMENTS TO SENATE RULE 320 AND HOUSE RULES 320 AND 323

1 **SECTION 1. AMENDMENT.** Senate Rule 320 is amended as follows:

2 **320. ~~AYES AND NAYS~~ ROLL CALL VOTE.** Except as required by the Constitution or
 3 these rules, ~~the ayes and nays~~ a roll call vote may not be ordered unless requested by
 4 one-sixth of those members present. ~~No person may remain by the Secretary's desk when the~~
 5 ~~ayes and nays are being called.~~ When ~~the ayes and nays are~~ a recorded roll call vote is
 6 ordered pursuant to this rule, the results must be printed in the journal in their entirety.

7 **SECTION 2. AMENDMENT.** House Rule 320 is amended as follows:

8 **320. ~~AYES AND NAYS~~ ROLL CALL VOTE.** Except as required by the Constitution or
 9 these rules, ~~the ayes and nays~~ a roll call vote may not be ordered unless requested by
 10 one-sixth of those members present. ~~No person may remain by the Chief Clerk's desk when~~
 11 ~~the ayes and nays are being called.~~ When ~~the ayes and nays are~~ a recorded roll call vote is
 12 ordered pursuant to this rule, the results must be printed in the journal in their entirety.

13 **SECTION 3. AMENDMENT.** House Rule 323 is amended as follows:

14 **323. VOTE BY SPEAKER.** The Speaker shall vote on all questions taken by ~~ayes and~~
 15 ~~nays~~ roll call vote, except on appeals from the Speaker's decision, and in all elections or
 16 decisions called for by any member.

NOTE: This proposed rules amendment is in response to a question as to the number required to require a roll call vote. The concern was that an "ayes and nays" vote is only for final passage. Under the Constitution of North Dakota Article IV, 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 ...

The former provision (Article IV, Section 29, which was replaced by Section 13 in 1986) governing recorded votes provided "the yeas and nays on any question shall be taken and entered on the journal at the request of one-sixth of those present." The reference in Senate and House Rules 320 to "ayes and nays" relates back to the language in the former Section 29. In neither instance was the vote requirement limited to final passage.

Note that the proposed language distinguishes between a "roll call vote" and a "recorded roll call vote." The other references in the rules to a "recorded roll call vote" on the floor are in Senate and House Rules 339 and 340, relating to final disposition of bills and resolutions. The proposed reference to a "roll call vote" and a "recorded roll

call vote" clarifies the number required to request a roll call vote, whether recorded or not. Otherwise, it could be argued that the one-sixth requirement only applies to a recorded vote because no reference is made to an unrecorded vote; thus, one member could request a "roll call vote" that is not a "recorded roll call vote."

The sentence prohibiting anyone from remaining by the Secretary's or Chief Clerk's desk was removed because with electronic voting there appears to be no reason to fear someone interfering with taking the vote.

House Rule 323 is amended to make a corresponding change to a reference to roll call votes. The references to "ayes and nays" in Senate and House Rules 316, 341, and 347 pertain to vote totals or unrecorded votes and do not require change due to this proposed amendment.