

September 2009

PROPOSED AMENDMENTS TO SENATE RULES 318(2) AND 701

1 **SECTION 1. AMENDMENT.** Subsection 2 of Senate Rule 318 is amended as follows:

2 2. The following questions require a majority vote of the members-elect of the
3 Senate:

- 4 a. Passage of bills, as provided in Section 13, Article IV, of the Constitution and
5 Senate Rule 339.
- 6 b. Passage of proposed amendments to the Constitution of North Dakota, as
7 provided in Section 16, Article IV, of the Constitution.
- 8 c. Ratification of amendments to the Constitution of the United States, as
9 provided in Senate Rule 339.
- 10 d. To recede before a conference in a case where a majority governs, as
11 provided in Joint Rule 202.
- 12 e. To constitute a quorum, as provided in Senate Rule 103.
- 13 f. Election of certain Senate employees, as provided in Senate Rule 206.
- 14 g. Suspension of further proceedings under a call of the Senate, as provided in
15 Senate Rule 303.
- 16 h. Adoption of propositions of a divided question if the division would require a
17 majority vote of the members-elect, as provided in Senate Rule 319.
- 18 i. Reconsideration of questions other than adoption of amendments if before
19 the end of the next legislative day, as provided in Senate Rule 347.
- 20 j. Confirmation of executive nominations, as provided in Senate Rule 701.

21 **SECTION 2. AMENDMENT.** Senate Rule 701 is amended as follows:

22 **701. Executive nominations.** Upon receipt of nominations from the executive, the
23 Senate shall forthwith consider them. The nominations must be read and be referred to the
24 select committee appointed pursuant to Senate Rule 501, unless otherwise ordered by the
25 Senate. The final question on every nomination must be, "Will the Senate advise and consent
26 to the nomination?" The question must be approved by a majority of the members-elect. The
27 President shall advise the executive, in writing, of the action taken by the Senate.

NOTE: This proposed rules amendment is in response to the following question:

Under Senate Rule 701, what is the vote requirement for confirmation of executive nominations?

Senate Rule 701 is silent on the vote requirement to consent to executive nominations. Senate Rule 318(1)(m) provides for questions to be decided by a majority of the members present if no other vote is required by the constitution or rule.

Article VIII, Section 6, of the Constitution of North Dakota is the only constitutional provision concerning a vote requirement for confirmation of executive nominations, and that provision requires a vote by a majority of the members-elect.

The statutes governing Senate confirmation requirements are silent as to a vote requirement of a majority of members present or members-elect.

The proposed amendment establishes the requirement of a majority of the members-elect. Thus, any ambiguity or distinction of vote requirements among different nominees is eliminated.