

JOURNAL OF THE SENATE

Fifty-third Legislative Assembly

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Bismarck, January 13, 1993

The Senate convened at 1:00 p.m., with President Myrdal presiding.

The prayer was offered by Pastor David Biddle, Alliance Church, Bismarck.

The roll was called and all members were present except Senators Nething and Traynor.

A quorum was declared by the President.

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

MR. SPEAKER: The President has signed: HCR 3010.

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

MR. SPEAKER: The Senate has passed and your favorable consideration is requested on: SB 2094, SB 2104, SB 2112, SB 2118, SB 2121, SB 2122, SB 2123, SB 2134, SB 2136, SB 2147, SB 2160, SB 2166, SB 2169.

MOTION

SEN. MATHERN MOVED that SB 2051, which is on the Sixth order, be rereferred to the **Finance and Taxation Committee**, which motion prevailed. Pursuant to Sen. Mathern's motion, SB 2051 was rereferred.

MOTION

SEN. MATHERN MOVED that SB 2095, which is on the Eleventh order, be rereferred to the **Industry, Business and Labor Committee**, which motion prevailed. Pursuant to Sen. Mathern's motion, SB 2095 was rereferred.

MOTION

SEN. MATHERN MOVED that SB 2266 be returned to the Senate floor from the **Transportation Committee** and be rereferred to the **Human Services Committee**, which motion prevailed. Pursuant to Sen. Mathern's motion, SB 2266 was rereferred.

MOTION

SEN. MATHERN MOVED that SB 2110 be returned to the Senate floor from the **Industry, Business and Labor Committee** and be rereferred to the **Natural Resources Committee**, which motion prevailed. Pursuant to Sen. Mathern's motion, SB 2110 was rereferred.

MESSAGE TO THE SENATE FROM THE HOUSE (ROY GILBREATH, CHIEF CLERK)

MADAM PRESIDENT: The House has passed and your favorable consideration is requested on: HB 1042, HB 1043, HB 1044, HB 1080, HB 1085, HB 1094, HB 1101, HB 1132, HB 1133, HB 1145, HB 1146, HB 1147, HB 1148, HB 1150, HB 1172, HB 1173.

CONSIDERATION OF AMENDMENTS

SB 2127: SEN. GRINDBERG (Education Committee) MOVED that the amendments on SJ page 93 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

CONSIDERATION OF AMENDMENTS

SB 2157: SEN. KRAUTER (Industry, Business and Labor Committee) MOVED that the amendments on SJ page 93 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

CONSIDERATION OF AMENDMENTS

SB 2164: SEN. NALEWAJA (Human Services Committee) MOVED that the amendments

on SJ page 94 be adopted and then be placed on the Eleventh order with DO PASS, which motion prevailed.

SECOND READING OF SENATE BILL

SB 2084: A BILL for an Act to create and enact a new section to chapter 21-04 of the North Dakota Century Code, relating to the deposit of public funds with the North Dakota municipal bond bank.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO PASS, 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; Naaden; Nalewaja; Nelson; O'Connell; Redlin; Robinson; Sand; Scherber; Schoenwald; Solberg; Stenehjem, B.; Stenehjem, W.; Streibel; Tallackson; Tennefos; Thane; Tomac; Urlacher; Wogsland; Yockim

ABSENT AND NOT VOTING: Nething; Traynor

SB 2084 passed and the title was agreed to.

SECOND READING OF SENATE BILL

SB 2162: A BILL for an Act to amend and reenact section 19-20.1-06 of the North Dakota Century Code, relating to fertilizer tonnage reports.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO PASS, 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; Heinrich; Holmberg; Jerome; Keller; Kelly; Kelsh; Kinnoin; Krauter; Krebsbach; Langley; Lindaas; Lindgren; Lips; Marks; Mathern; Maxson; Mushik; Mutch; Nalewaja; Nelson; O'Connell; Redlin; Robinson; Sand; Scherber; Schoenwald; Solberg; Stenehjem, B.; Stenehjem, W.; Streibel; Tallackson; Tennefos; Thane; Tomac; Urlacher; Wogsland; Yockim

NAYS: Naaden

ABSENT AND NOT VOTING: Nething; Traynor

SB 2162 passed and the title was agreed to.

SECOND READING OF SENATE BILL

SB 2096: A BILL for an Act to amend and reenact section 34-14-04.1 of the North Dakota Century Code, relating to withholding by an employer of advances paid to an employee.

ROLL CALL

The question being on the final passage of the bill, which has been read, and has committee recommendation of DO NOT PASS, the roll was called and there were 25 YEAS, 22 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

YEAS: Andrist; Bowman; Evanson; Freborg; Goetz; Grindberg; Holmberg; Kinnoin; Krebsbach; Lindgren; Lips; Maxson; Mutch; Naaden; Nalewaja;

Nelson; Sand; Solberg; Stenehjem, B.; Stenehjem, W.; Streibel; Tennefos; Thane; Urlacher; Yockim

NAYS: DeMers; Dotzenrod; Graba; Heinrich; Jerome; Keller; Kelly; Kelsh; Krauter; Langley; Lindaas; Marks; Mathern; Mushik; O'Connell; Redlin; Robinson; Scherber; Schoenwald; Tallackson; Tomac; Wogsland

ABSENT AND NOT VOTING: Nething; Traynor

SB 2096 passed and the title was agreed to.

MOTION

SEN. KREBSBACH MOVED that the vote by which SB 2096 passed be reconsidered and the motion to reconsider be laid on the table.

REQUEST

SEN. WOGSLAND REQUESTED a recorded roll call vote on the motion that the vote by which SB 2096 passed be reconsidered and the motion to reconsider be laid on the table, which request was granted.

ROLL CALL

The question being on the motion that the vote by which SB 2096 passed be reconsidered and the motion to reconsider be laid on the table, the roll was called and there were 22 YEAS, 25 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

YEAS: Andrist; Bowman; Evanson; Freborg; Goetz; Grindberg; Holmberg; Jerome; Krebsbach; Lindgren; Lips; Mutch; Nalewaja; Nelson; Sand; Solberg; Stenehjem, B.; Stenehjem, W.; Streibel; Tennefos; Thane; Urlacher

NAYS: DeMers; Dotzenrod; Graba; Heinrich; Keller; Kelly; Kelsh; Kinnoin; Krauter; Langley; Lindaas; Marks; Mathern; Maxson; Mushik; Naaden; O'Connell; Redlin; Robinson; Scherber; Schoenwald; Tallackson; Tomac; Wogsland; Yockim

ABSENT AND NOT VOTING: Nething; Traynor

So the motion that the vote by which SB 2096 passed be reconsidered and the motion to reconsider be laid on the table failed.

SECOND READING OF SENATE BILL

SB 2115: A BILL for an Act to repeal chapter 25-15 of the North Dakota Century Code, relating to sheltered workshops for the handicapped.

ROLL CALL

The question being on the final passage of the bill, which has been read, and has committee recommendation of DO PASS, 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; Naaden; Nalewaja; Nelson; O'Connell; Redlin; Robinson; Sand; Scherber; Schoenwald; Solberg; Stenehjem, B.; Stenehjem, W.; Streibel; Tallackson; Tennefos; Thane; Tomac; Urlacher; Wogsland; Yockim

ABSENT AND NOT VOTING: Nething; Traynor

SB 2115 passed and the title was agreed to.

SECOND READING OF SENATE BILL

SB 2158: A BILL for an Act to create and enact section 45-11-05.1 of the North Dakota Century Code, relating to the change of name of a member named on a fictitious name certificate; and to amend and reenact sections 45-11-02 and 45-11-06 of the North Dakota Century Code, relating to fictitious name certificate requirements.

ROLL CALL

The question being on the final passage of the bill, which has been read, and has committee recommendation of DO PASS, 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; Naaden; Nalewaja; Nelson; O'Connell; Redlin; Robinson; Sand; Scherber; Schoenwald; Solberg; Stenehjem, B.; Stenehjem, W.; Streibel; Tallackson; Tennefos; Thane; Tomac; Urlacher; Wogsland; Yockim

ABSENT AND NOT VOTING: Nething; Traynor

SB 2158 passed and the title was agreed to.

SECOND READING OF SENATE BILL

SB 2190: A BILL for an Act to amend and reenact subsection 10 of section 57-39.2-04, sections 57-40.3-10, 57-43.1-03, 57-43.1-10, 57-43.1-42.1, and 57-43.2-35.1 of the North Dakota Century Code, relating to the exemption of gaming tickets from sales tax, allocation of revenue for motor vehicle fuel taxes, and refunds of motor vehicle fuels and special fuel taxes; and to repeal sections 57-43.1-41, 57-43.1-42.2, and 57-43.2-34 of the North Dakota Century Code, relating to the authorization of the tax commissioner to relieve fuel dealers from collecting tax from licensed fuel importers.

ROLL CALL

The question being on the final passage of the bill, which has been read, and has committee recommendation of DO PASS, 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; Naaden; Nalewaja; Nelson; O'Connell; Redlin; Robinson; Sand; Scherber; Schoenwald; Solberg; Stenehjem, B.; Stenehjem, W.; Streibel; Tallackson; Tennefos; Thane; Tomac; Urlacher; Wogsland; Yockim

ABSENT AND NOT VOTING: Nething; Traynor

SB 2190 passed and the title was agreed to.

SECOND READING OF SENATE BILL

SB 2208: A BILL for an Act to amend and reenact section 13-05-02 of the North Dakota Century Code, relating to out-of-state persons or agencies collecting from individuals living in North Dakota.

ROLL CALL

The question being on the final passage of the bill, which has been read, and has committee recommendation of DO PASS, 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; Naaden; Nalewaja; Nelson; O'Connell; Redlin; Robinson; Sand; Scherber; Schoenwald; Solberg; Stenehjem, B.; Stenehjem, W.; Streibel; Tallackson; Tennefos; Thane; Tomac; Urlacher; Wogsland; Yockim

ABSENT AND NOT VOTING: Nething; Traynor

SB 2208 passed and the title was agreed to.

SECOND READING OF SENATE BILL

SB 2209: A BILL for an Act to amend and reenact subsection 4 of section 6-06-02 of the North Dakota Century Code, relating to maintaining national credit union administration insurance of accounts.

ROLL CALL

The question being on the final passage of the bill, which has been read, and has committee recommendation of DO PASS, 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; Naaden; Nalewaja; Nelson; O'Connell; Redlin; Robinson; Sand; Scherber; Schoenwald; Solberg; Stenehjem, B.; Stenehjem, W.; Streibel; Tallackson; Tennefos; Thane; Tomac; Urlacher; Wogsland; Yockim

ABSENT AND NOT VOTING: Nething; Traynor

SB 2209 passed and the title was agreed to.

SECOND READING OF SENATE BILL

SB 2227: A BILL for an Act to create and enact a new chapter to title 6 and a new subsection to section 6-03-02 of the North Dakota Century Code, relating to policies, self-serving practices, and administration of fiduciary powers by banking institutions; and to amend and reenact subsection 2 of section 6-01-02 and section 6-05-02 of the North Dakota Century Code, relating to removing trust companies from the definition of a bank and to banks exercising fiduciary powers.

ROLL CALL

The question being on the final passage of the bill, which has been read, and has committee recommendation of DO PASS, 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; Naaden; Nalewaja; Nelson; O'Connell; Redlin; Robinson; Sand; Scherber; Schoenwald; Solberg; Stenehjem, B.; Stenehjem, W.; Streibel; Tallackson; Tennefos; Thane; Tomac; Urlacher; Wogsland; Yockim

ABSENT AND NOT VOTING: Nething; Traynor

SB 2227 passed and the title was agreed to.

MOTION

SEN. MATHERN MOVED that SB 2233 be returned to the Senate floor from the Agriculture Committee and be rereferred to the Appropriations Committee, which motion prevailed. Pursuant to Sen. Mathern's motion, SB 2233 was rereferred.

MOTION

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

MOTION

SEN. MATHERN MOVED that the Senate be on the Fifth and Ninth orders of business and at the conclusion of those orders, the Senate stand adjourned until 1:00 p.m., Thursday, January 14, 1993, which motion prevailed.

REPORT OF STANDING COMMITTEE

SB 2062: Human Services Committee (Sen. Mathern, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2062, as amended, was placed on the Sixth order on the calendar.

Page 1, line 22, replace "addictive" with "compulsive"

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2073: Industry, Business and Labor Committee (Sen. Langley, Chairman) recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2073 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2074: Industry, Business and Labor Committee (Sen. Langley, Chairman) recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2074 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2082: Industry, Business and Labor Committee (Sen. Langley, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2082, as amended, was placed on the Sixth order on the calendar.

Page 2, line 25, after the period insert "Public water system employees may install and maintain service lines and water meters on premises served by the water system."

Page 3, line 1, remove "A plumbing installation may not be connected for use"

Page 3, remove line 2

Page 3, line 3, remove "water that the installation complies with the state plumbing code."

Page 3, line 13, remove "all" and replace "corporate" with "jurisdictional"

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2113: Industry, Business and Labor Committee (Sen. Langley, Chairman) recommends DO PASS (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2113 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2159: Industry, Business and Labor Committee (Sen. Langley, Chairman) recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2159 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2191: Finance and Taxation Committee (Sen. Dotzenrod, Chairman) recommends **DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2191 was placed on the Eleventh order on the calendar.

FIRST READING OF SENATE BILLS

Sens. Evanson, Marks, Scherber and Rep. Boehm introduced:

SB 2283: A BILL for an Act to create and enact a new subsection to section 39-06.1-10 and a new subsection to section 39-08-18 of the North Dakota Century Code, relating to suspension of a motor vehicle operator's license for violating laws relating to the purchase, consumption, or possession of alcoholic beverages; and to amend and reenact section 5-01-08 of the North Dakota Century Code, relating to suspension of a motor vehicle operator's license for the purchase, consumption, or possession of alcoholic beverages by a person under twenty-one years of age.

Was read the first time and referred to the **Transportation Committee.**

Sen. Evanson and Rep. Rydell introduced:

SB 2284: A BILL for an Act to authorize special agents of the federal bureau of investigation to make arrests.

Was read the first time and referred to the **Judiciary Committee.**

Sens. Wogsland, DeMers, Freborg and Reps. Cleary, Rydell, Svedjan introduced:

SB 2285: A BILL for an Act to provide for the medical testing of a sex offense defendant for sexually transmitted diseases and the human immunodeficiency virus.

Was read the first time and referred to the **Human Services Committee.**

Sens. Lindgren, Heinrich and Rep. Oban introduced:

SB 2286: A BILL for an Act to repeal section 14-03-07 of the North Dakota Century Code, relating to prohibited marriages of persons institutionalized as severely retarded.

Was read the first time and referred to the **Human Services Committee.**

Sens. Andrisc, Streibel and Reps. Froseth, Henegar, Mahoney introduced:

SB 2287: A BILL for an Act to create and enact a new section to chapter 40-04.1, a new section to chapter 40-05.1, and a new section to chapter 40-09 of the North Dakota Century Code, relating to a vote on the publication of the minutes of proceedings of the governing body in a city; and to amend and reenact section 40-08-12 of the North Dakota Century Code, relating to a vote on the publication of minutes.

Was read the first time and referred to the **Political Subdivisions Committee.**

Sens. Tomac, Thane and Reps. Dalrymple, Hokana, Timm introduced:

SB 2288: A BILL for an Act to create and enact a new subsection to section 57-02-08 of the North Dakota Century Code, relating to a property tax exemption for the value of pollution abatement improvements to certain buildings or facilities; and to provide an effective date.

Was read the first time and referred to the **Natural Resources Committee.**

Sens. Lindaas, Redlin and Reps. Aarsvold, Kaldor, Laughlin introduced:

SB 2289: A BILL for an Act to amend and reenact section 11-28.2-01 of the North Dakota Century Code, relating to establishment of recreation service districts.

Was read the first time and referred to the **Natural Resources Committee.**

Sen. Tennesos introduced:

SB 2290: A BILL for an Act to amend and reenact section 5-01-08 of the North Dakota Century Code, relating to consumption of alcoholic beverages by a person under twenty-one years of age.
Was read the first time and referred to the **Judiciary Committee.**

Sen. Tallackson and Rep. Boucher introduced:

SB 2291: A BILL for an Act to amend and reenact section 39-21-44.1 of the North Dakota Century Code, relating to covering vehicles to prevent spillage onto the roadway.
Was read the first time and referred to the **Transportation Committee.**

Sens. Dotzenrod, Langley, Thane introduced:

SB 2292: A BILL for an Act to amend and reenact section 4-10.3-08 of the North Dakota Century Code, relating to reports required from designated handlers of dry edible beans.
Was read the first time and referred to the **Agriculture Committee.**

Sen. Dotzenrod introduced:

SB 2293: A BILL for an Act to amend and reenact section 57-38-09.1, subsection 5 of section 57-38-30.3, sections 57-38-60, 57-38-61, subsections 1, 2, 5, and 8 of section 57-38.4-01, and subsection 1 of section 57-38.4-02 of the North Dakota Century Code, relating to filing requirements for tax-exempt organizations, the definition of federal income tax liability for the simplified optional method of computing tax, the filing requirements for income withholding returns and wage information returns, penalties for failure to file wage information returns, federalizing the due date for employers' annual returns, applying the provisions for failing to complete returns or supply information to income withholding tax, definitions for water's edge elections, and requirements for using the water's edge method; to provide a penalty; and to provide an effective date.
Was read the first time and referred to the **Finance and Taxation Committee.**

Sen. W. Stenehjem and Rep. Poolman introduced:

SB 2294: A BILL for an Act to amend and reenact subsections 1 and 7 of section 14-15-11 and subsection 1 of section 14-15-16 of the North Dakota Century Code, relating to notice of a petition to adopt an adult.
Was read the first time and referred to the **Judiciary Committee.**

FIRST READING OF SENATE CONCURRENT RESOLUTION

Sens. DeMers, Lips, Mathern and Reps. Rydell, Kerzman, Price introduced:

SCR 4013: A concurrent resolution directing the Legislative Council to study the establishment of a state repository for living wills, durable powers of attorney for health care, and other medical documents.
Was read the first time and referred to the **Human Services Committee.**

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

CAROL SIEGERT, Secretary