

## JOURNAL OF THE SENATE

## Fifty-fifth Legislative Assembly

\* \* \* \* \*

Bismarck, January 22, 1997

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

The prayer was offered by Pastor Ernest J. Moen, Evangel Temple, Bismarck.

The roll was called and all members were present except Senators Bowman and Fischer.

A quorum was declared by the President.

## CORRECTION AND REVISION OF THE JOURNAL

**MADAM PRESIDENT:** Your **Committee on Correction and Revision of the Journal (Sen. Sand, Chairman)** has carefully reexamined the Journal of the Eleventh Day and recommends that it be corrected as follows and when so corrected, recommends that it be approved:

Page 108, line 19, remove "**NOT**"

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

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

**MADAM PRESIDENT:** The Speaker has signed and your signature is respectfully requested on: HB 1104.

## 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 1075, HB 1082, HB 1149, HB 1152, HB 1156.

## MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM C. PARKER, SECRETARY)

**MR. SPEAKER:** The Senate has passed and your favorable consideration is requested on: SB 2025, SB 2039, SB 2040, SB 2046, SB 2080, SB 2092, SB 2093, SB 2098, SB 2099, SB 2128, SB 2146.

## MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM C. PARKER, SECRETARY)

**MR. SPEAKER:** The President has signed: HB 1104.

## CONSIDERATION OF AMENDMENTS

**SB 2108: SEN. C. NELSON (Judiciary Committee) MOVED** that the amendments on SJ page 126 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

## CONSIDERATION OF AMENDMENTS

**SB 2125: SEN. KREBSBACH (Industry, Business and Labor Committee) MOVED** that the amendments on SJ page 127 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

## CONSIDERATION OF AMENDMENTS

**SB 2142: SEN. MUTCH (Industry, Business and Labor Committee) MOVED** that the amendments on SJ page 127 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

## CONSIDERATION OF AMENDMENTS

**SB 2157: SEN. SAND (Industry, Business and Labor Committee) MOVED** that the amendments on SJ page 127 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

## MOTION

**SEN. GOETZ MOVED** that SB 2102, which is on the Eleventh order, be rereferred to the **Government and Veterans Affairs Committee**, which motion prevailed. Pursuant to Sen. Goetz's motion, Engrossed SB 2102 was rereferred.

**SECOND READING OF SENATE BILL**

**SB 2036:** A BILL for an Act to amend and reenact sections 49-10.1-01, 49-10.1-02, and 49-10.1-03 of the North Dakota Century Code, relating to the regulation of railroads by the public service commission.

**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, 0 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Berg; Christmann; Cook; DeMers; Freborg; Goetz; Grindberg; Heitkamp; Holmberg; Kelsh; Kinnoin; Klein; Krauter; Krebsbach; Kringstad; LaFountain; Lee; Lindaas; Lips; Mathern; Mutch; Mutzenberger; Naaden; Nalewaja; Nelson, C.; Nelson, G.; Nething; O'Connell; Redlin; Robinson; Sand; Schobinger; Solberg; St. Aubyn; Stenehjem, B.; Stenehjem, W.; Thane; Thompson; Tomac; Traynor; Urlacher; Wanzek; Watne; Wogsland; Yockim

**ABSENT AND NOT VOTING:** Bowman; Fischer; Tallackson

Engrossed SB 2036 passed and the title was agreed to.

\*\*\*\*\*

**SECOND READING OF SENATE BILL**

**SB 2037:** A BILL for an Act to create and enact a new section to chapter 32-03 of the North Dakota Century Code, relating to the liability of the owner or operator of a railroad for injury of an individual riding on a locomotive or railroad car without authority from the owner or operator; to amend and reenact sections 49-05-06, 49-06-01, 49-09-04.2, 49-09-04.4, and 49-11-21 of the North Dakota Century Code, relating to the regulation of railroads; and to repeal sections 49-09-04.1, 49-09-05, 49-09-08, 49-09-09, 49-09-11.1, 49-09-11.2, 49-09-11.3, 49-09-11.4, 49-09-11.5, 49-09-11.6, 49-09-11.7, 49-10.1-04, 49-10.1-06, 49-10.1-09, 49-11-10, 49-11-11, 49-11-12, 49-16-11, and 49-17.2-31 of the North Dakota Century Code, relating to the regulation of railroads.

**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, 0 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Berg; Christmann; Cook; DeMers; Freborg; Goetz; Grindberg; Heitkamp; Holmberg; Kelsh; Kinnoin; Klein; Krauter; Krebsbach; Kringstad; LaFountain; Lee; Lindaas; Lips; Mathern; Mutch; Mutzenberger; Naaden; Nalewaja; Nelson, C.; Nelson, G.; Nething; O'Connell; Redlin; Robinson; Sand; Schobinger; Solberg; St. Aubyn; Stenehjem, B.; Stenehjem, W.; Thane; Thompson; Tomac; Traynor; Urlacher; Wanzek; Watne; Wogsland; Yockim

**ABSENT AND NOT VOTING:** Bowman; Fischer; Tallackson

Engrossed SB 2037 passed and the title was agreed to.

\*\*\*\*\*

**SECOND READING OF SENATE BILL**

**SB 2034:** A BILL for an Act to amend and reenact sections 54-52.1-04 and 54-52.1-04.9 of the North Dakota Century Code, relating to employee assistance program benefits coverage under the uniform group insurance program; to provide for transition; to provide an effective date; to provide an expiration date; and to declare an emergency.

**MOTION**

**SEN. GOETZ MOVED** that, in light of the fiscal note, SB 2034 be rereferred to the **Appropriations Committee**, which motion prevailed. Pursuant to Sen. Goetz's motion, Engrossed SB 2034 was rereferred.

\*\*\*\*\*

**SECOND READING OF SENATE BILL**

**SB 2158:** A BILL for an Act to amend and reenact sections 16.1-11-18 and 16.1-12-08 of the North Dakota Century Code, relating to filling election candidate vacancies.

**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; Berg; Christmann; Cook; DeMers; Freborg; Goetz; Grindberg; Heitkamp; Holmberg; Kelsh; Kinnoin; Klein; Krauter; Krebsbach; Kringstad; LaFountain; Lee; Lindaas; Lips; Mathern; Mutch; Mutzenberger; Naaden; Nalewaja; Nelson, C.; Nelson, G.; Nething; O'Connell; Redlin; Robinson; Sand; Schobinger; Solberg; St. Aubyn; Stenehjem, B.; Stenehjem, W.; Tallackson; Thane; Thompson; Tomac; Traynor; Urlacher; Wanzek; Watne; Wogsland; Yockim

**ABSENT AND NOT VOTING:** Bowman; Fischer

SB 2158 passed and the title was agreed to.

\*\*\*\*\*

**SECOND READING OF SENATE BILL**

**SB 2165:** A BILL for an Act to create and enact a new section to chapter 25-06 of the North Dakota Century Code, relating to the purchase and resale of vision specific adaptive aids, devices, and appliances by the school for the blind and the creation of a revolving fund; to provide a continuing appropriation; and to declare an emergency.

**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; Berg; Christmann; Cook; DeMers; Freborg; Goetz; Grindberg; Heitkamp; Holmberg; Kelsh; Kinnoin; Klein; Krauter; Krebsbach; Kringstad; LaFountain; Lee; Lindaas; Lips; Mathern; Mutch; Mutzenberger; Naaden; Nalewaja; Nelson, C.; Nelson, G.; Nething; O'Connell; Redlin; Robinson; Sand; Schobinger; Solberg; St. Aubyn; Stenehjem, B.; Stenehjem, W.; Tallackson; Thane; Thompson; Tomac; Traynor; Urlacher; Wanzek; Watne; Wogsland; Yockim

**ABSENT AND NOT VOTING:** Bowman; Fischer

SB 2165 passed, the title was agreed to, and the emergency clause was declared carried.

\*\*\*\*\*

**SECOND READING OF SENATE BILL**

**SB 2169:** A BILL for an Act to create and enact a new section to chapter 6-06 of the North Dakota Century Code, relating to immunity of credit union volunteers.

**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; Berg; Christmann; Cook; DeMers; Freborg; Goetz; Grindberg; Heitkamp; Holmberg; Kelsh; Kinnoin; Klein; Krauter; Krebsbach; Kringstad; LaFountain; Lee; Lindaas; Lips; Mathern; Mutch; Mutzenberger; Naaden; Nalewaja; Nelson, C.; Nelson, G.; Nething; O'Connell; Redlin; Robinson; Sand; Schobinger; Solberg; St. Aubyn; Stenehjem, B.; Stenehjem, W.; Tallackson; Thane; Thompson; Tomac; Traynor; Urlacher; Wanzek; Watne; Wogsland; Yockim

**ABSENT AND NOT VOTING:** Bowman; Fischer

SB 2169 passed and the title was agreed to.

\*\*\*\*\*

**SECOND READING OF SENATE BILL**

**SB 2176:** A BILL for an Act to amend and reenact section 15-40.1-09 of the North Dakota Century Code, relating to the verification of per student payments.

**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 46 YEAS, 0 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Berg; Christmann; Cook; DeMers; Freborg; Goetz; Grindberg; Heitkamp; Holmberg; Kelsh; Kinnoin; Klein; Krauter; Krebsbach; Kringstad; LaFountain; Lee; Lindaas; Lips; Mathern; Mutch; Mutzenberger; Naaden; Nalewaja; Nelson, C.; Nelson, G.; Nething; O'Connell; Redlin; Robinson; Sand; Schobinger; Solberg; St. Aubyn; Stenehjem, B.; Stenehjem, W.; Thane; Thompson; Tomac; Traynor; Urlacher; Wanzek; Watne; Wogsland; Yockim

**ABSENT AND NOT VOTING:** Bowman; Fischer; Tallackson

SB 2176 passed and the title was agreed to.

\*\*\*\*\*

**SECOND READING OF HOUSE BILL**

**HB 1114:** A BILL for an Act to amend and reenact subsections 1 and 3 of section 5-02-07.2 of the North Dakota Century Code, relating to registration and marketing of beer sold in kegs.

**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 46 YEAS, 0 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Berg; Christmann; Cook; DeMers; Freborg; Goetz; Grindberg; Heitkamp; Holmberg; Kelsh; Kinnoin; Klein; Krauter; Krebsbach; Kringstad; LaFountain; Lee; Lindaas; Lips; Mathern; Mutch; Mutzenberger; Naaden; Nalewaja; Nelson, C.; Nelson, G.; Nething; O'Connell; Redlin; Robinson; Sand; Schobinger; Solberg; St. Aubyn; Stenehjem, B.; Stenehjem, W.; Thane; Thompson; Tomac; Traynor; Urlacher; Wanzek; Watne; Wogsland; Yockim

**ABSENT AND NOT VOTING:** Bowman; Fischer; Tallackson

HB 1114 passed and the title was agreed to.

\*\*\*\*\*

**SECOND READING OF HOUSE BILL**

**HB 1124:** A BILL for an Act to create and enact a new section to chapter 44-04 of the North Dakota Century Code, relating to access to financial account numbers; and to declare an emergency.

**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; Berg; Christmann; Cook; DeMers; Freborg; Goetz; Grindberg; Heitkamp; Holmberg; Kelsh; Kinnoin; Klein; Krauter; Krebsbach; Kringstad; LaFountain; Lee; Lindaas; Lips; Mathern; Mutch; Mutzenberger; Naaden; Nalewaja; Nelson, C.; Nelson, G.; Nething; O'Connell; Redlin; Robinson; Sand; Schobinger; Solberg; St. Aubyn; Stenehjem, B.; Stenehjem, W.; Tallackson; Thane; Thompson; Tomac; Traynor; Urlacher; Wanzek; Watne; Wogsland; Yockim

**ABSENT AND NOT VOTING:** Bowman; Fischer

Engrossed HB 1124 passed, the title was agreed to, and the emergency clause was declared carried.

\*\*\*\*\*

**REQUEST**

**SEN. HOLMBERG REQUESTED** that his remarks be printed in the Journal, which request was granted.

Members of the Senate, continuing a tradition which is actually many decades old, members of the House and Senate represented the North Dakota Legislature at the January 20th inauguration of the President of the United States. Along with myself, Senator Thane, and Senator Lindaas represented the Senate, Representatives Nicholas, Mickelson, and Gulleson represented the House.

Each person who stayed at our hotel receive a small gift bag including a letter welcoming us to the celebration. The hotel people, I will let you know, know that we exist, as I quote from the letter: "The weatherman has promised not to pull the dirty tricks he pulled on the second Reagan Inaugural. We will not have a high of 4 degrees as we did on that day in 1985. However, it is going to be cold this weekend - maybe not as cold as North Dakota, but still cold...." Although the weather was cool, the hundreds of thousands in attendance did not complain at all.

A writer in The Washington Post commented that a Republican at the inauguration of Bill Clinton would have feelings akin to attending an ex-spouses wedding reception. Well, Madame President, that feeling was not evident in the crowds this Senator observed.

From the invocation presented by the Reverend Billy Graham, participating in his seventh inaugural, to the National Anthem sung by Santita Jackson, daughter of Jesse Jackson, the inauguration ceremonies can best be described as awesome. People from around the country and from around the world, people from every walk of life joined movie stars, governors, officials of every description, including state legislators to celebrate the 208th year of the constitutional process which is America.

I would like to take this opportunity to thank our congressional delegation, who helped us with tickets to the ceremony and invited us to breakfast in the Dirksen Senate office building the morning of the inauguration, along with all other North Dakotans who were in attendance.

And last, but really first, we thank the legislature for selecting us to represent them at this inauguration ceremony, and would suggest that if you are ever given the opportunity to attend, you will not be disappointed.

Thank you, Madame President.

#### MOTION

**SEN. GOETZ MOVED** that SB 2303 be returned to the Senate floor from the **Agriculture Committee** and be rereferred to the **Finance and Taxation Committee**, which motion prevailed. Pursuant to Sen. Goetz's motion, SB 2303 was rereferred.

#### MOTION

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

#### MOTION

**SEN. GOETZ MOVED** that the Senate be on the Fifth, Ninth, and Thirteenth orders of business and at the conclusion of those orders, the Senate stand adjourned until 1:00 p.m., Thursday, January 23, 1997, which motion prevailed.

#### REPORT OF STANDING COMMITTEE

**SB 2121: Political Subdivisions Committee (Sen. Andrist, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2121 was placed on the Sixth order on the calendar.

Page 1, line 23, remove "current" and after "year" insert "during which a certificate of indebtedness is issued"

Page 3, line 6, remove the overstrike over "~~A tax~~", after "~~must be~~" insert "is", and remove the overstrike over "~~deemed to have been levied when it has been voted by the tax~~"

Page 3, line 7, remove the overstrike over "~~levying board and certified to the county auditor.~~"

Page 5, line 3, remove "must"

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**SB 2155: Finance and Taxation Committee (Sen. Urlacher, Chairman)** recommends **DO PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2155 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2156: Finance and Taxation Committee (Sen. Urlacher, Chairman)** recommends **DO PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2156 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2166: Education Committee (Sen. Freborg, Chairman)** recommends **DO NOT PASS** (5 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2166 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1065: Judiciary Committee (Sen. W. Stenehjem, Chairman)** recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1065 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1066: Industry, Business and Labor Committee (Sen. Mutch, Chairman)** recommends **DO PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1066 was placed on the Fourteenth order on the calendar.

**FIRST READING OF SENATE BILLS**

Sen. Lips introduced:

**SB 2310:** A BILL for an Act to amend and reenact section 26.1-06.1-41 of the North Dakota Century Code, relating to priority of distributions in insurance company insolvencies. Was read the first time and referred to the **Industry, Business and Labor Committee**.

Sens. Holmberg, Goetz, Grindberg, Nalewaja, Robinson, St. Aubyn introduced:

**SB 2311:** A BILL for an Act to provide for the establishment of a beginning entrepreneur loan guarantee program; and to provide an appropriation. Was read the first time and referred to the **Appropriations Committee**.

Sens. Holmberg, C. Nelson, W. Stenehjem and Reps. Berg, Kliniske, Poolman introduced:

**SB 2312:** A BILL for an Act to amend and reenact sections 15-62.2-00.1 and 15-62.2-03.3 of the North Dakota Century Code, relating to scholarships for postsecondary students. Was read the first time and referred to the **Education Committee**.

**FIRST READING OF SENATE CONCURRENT RESOLUTIONS**

Sens. DeMers, Mathern, Nalewaja, Yockim and Rep. Guleson introduced:

**SCR 4016:** A concurrent resolution urging each member of the North Dakota Congressional Delegation to seek and promote federal legislation that provides for in-home adjustment services for the visually impaired older citizens of the state of North Dakota. Was read the first time and referred to the **Human Services Committee**.

Sens. Naaden, O'Connell, B. Stenehjem introduced:

**SCR 4017:** A concurrent resolution directing the Legislative Council to study legislative employee compensation. Was read the first time and referred to the **Government and Veterans Affairs Committee**.

**FIRST READING OF HOUSE BILLS**

**HB 1075:** A BILL for an Act to amend and reenact section 39-08-01 of the North Dakota Century Code, relating to penalties for driving under the influence. Was read the first time and referred to the **Transportation Committee**.

**HB 1082:** A BILL for an Act to create and enact a new section to chapter 54-02 of the North Dakota Century Code, relating to Knife River flint as the official state rock. Was read the first time and referred to the **Natural Resources Committee**.

**HB 1149:** A BILL for an Act to create and enact a new subsection to section 43-19.1-08 of the North Dakota Century Code, relating to continuing education requirements for professional engineers or land surveyors. Was read the first time and referred to the **Industry, Business and Labor Committee**.

**HB 1152:** A BILL for an Act to amend and reenact sections 43-07-02, 43-07-04, 43-07-09, 43-07-09.1, 43-07-10, 43-07-13, 43-07-14, 43-07-15, and 43-07-17 of the North Dakota Century Code, relating to licensing of contractors. Was read the first time and referred to the **Industry, Business and Labor Committee**.

**HB 1156:** A BILL for an Act to create and enact a new section to chapter 13-03.1 of the North Dakota Century Code, relating to the maximum interest charge for loans under one thousand dollars and license exemptions; to amend and reenact subsection 1 of section

6-01-01.1, sections 13-03.1-02, 13-03.1-03, 13-03.1-05, 13-03.1-06, 13-03.1-07, 13-03.1-15, and 13-03.1-18 of the North Dakota Century Code, relating to the financial institutions regulatory fund, the administration and scope of the Consumer Finance Act, application and fees of consumer finance licensees, requirements for the issuance of consumer finance licenses, continuing license fees, consumer finance lending limitations, and setting penalties for legal violations; and to repeal chapter 13-03 of the North Dakota Century Code, relating to the licensing of small loan companies; and to provide a penalty.

Was read the first time and referred to the **Industry, Business and Labor Committee**.

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

**William C. Parker, Secretary**