

## JOURNAL OF THE SENATE

## Fifty-fifth Legislative Assembly

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Bismarck, January 23, 1997

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

The prayer was offered by Pastor James A. Vineyard, American Lutheran Church, Mandan.

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

A quorum was declared by the President.

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

**MADAM PRESIDENT:** The House has passed unchanged: SCR 4013.

**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 1032, HB 1102.

**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 2036, SB 2037, SB 2158, SB 2165, SB 2169, SB 2176.

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

**MR. SPEAKER:** The Senate has passed unchanged: HB 1114, HB 1124.

**CONSIDERATION OF AMENDMENTS**

**SB 2121: SEN. GRINDBERG (Political Subdivisions Committee) MOVED** that the amendments on SJ page 135 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

**MOTION**

**SEN. GOETZ MOVED** that SB 2108, which is on the Eleventh order, be rereferred to the **Judiciary Committee**, which motion prevailed. Pursuant to Sen. Goetz's motion, Engrossed SB 2108 was rereferred.

**MOTION**

**SEN. GOETZ MOVED** that SB 2166, which is on the Eleventh order, be rereferred to the **Education Committee**, which motion prevailed. Pursuant to Sen. Goetz's motion, SB 2166 was rereferred.

**SECOND READING OF SENATE BILL**

**SB 2125:** A BILL for an Act to create and enact a new section to chapter 65-05 of the North Dakota Century Code, relating to additional benefits for recipients of workers' compensation disability benefits; to amend and reenact section 65-05-09.3 of the North Dakota Century Code, relating to discontinuance of workers' compensation benefits upon retirement; to provide for retroactive application; and to declare an emergency.

**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; Klein; Krauter; Krebsbach; Kringstad; LaFountain; Lee; Lindaas; Lips; Mathern; Mutch; Mutzenberger; Naaden; Nalewaja; Nelson, C.; Nelson, G.; Nothing; 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; Kinnoin

Engrossed SB 2125 passed, the title was agreed to, and the emergency clause was declared carried.

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**SECOND READING OF SENATE BILL**

**SB 2142:** A BILL for an Act to amend and reenact sections 41-09-05, 41-09-25, and 41-09-26 of the North Dakota Century Code, relating to definition of certificate of deposit, perfection of security interests by filing, and perfection of security interests in certificates of deposit by possession.

**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; 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; Kinnoin

Engrossed SB 2142 passed and the title was agreed to.

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**SECOND READING OF SENATE BILL**

**SB 2157:** A BILL for an Act to amend and reenact section 21-04-09 of the North Dakota Century Code, relating to pledges to secure public deposits.

**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; 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; Kinnoin

Engrossed SB 2157 passed and the title was agreed to.

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**SECOND READING OF SENATE BILL**

**SB 2155:** A BILL for an Act to amend and reenact subsections 1 and 2 of section 57-51-06 of the North Dakota Century Code, relating to the filing of well production reports by electronic media and waiver of the requirement to file producer's reports.

**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; 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; Kinnoin

SB 2155 passed and the title was agreed to.

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**SECOND READING OF SENATE BILL**

**SB 2156:** A BILL for an Act to amend and reenact section 57-51-09 of the North Dakota Century Code, relating to the time allowed for assessment of gross production and oil extraction tax and the audit of returns.

**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; 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; Kinnoin

SB 2156 passed and the title was agreed to.

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**SECOND READING OF HOUSE BILL**

**HB 1065:** A BILL for an Act to amend and reenact section 1-03-05 and subsection 1 of section 16.1-01-09 of the North Dakota Century Code, relating to acts performed on Saturdays and business days.

**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; 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; Kinnoin

HB 1065 passed and the title was agreed to.

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**SECOND READING OF HOUSE BILL**

**HB 1066:** A BILL for an Act to amend and reenact section 6-09-29 of the North Dakota Century Code, relating to the audit of the Bank of 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 41 YEAS, 4 NAYS, 0 EXCUSED, 4 ABSENT AND NOT VOTING.

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

**NAYS:** Krauter; Lindaas; Nelson, C.; O'Connell

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

HB 1066 passed and the title was agreed to.

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**MOTION**

**SEN. GOETZ MOVED** that SB 2185 be returned to the Senate floor from the **Industry, Business and Labor Committee** and be rereferred to the **Political Subdivisions Committee**, which motion prevailed. Pursuant to Sen. Goetz's motion, SB 2185 was rereferred.

**MOTION**

**SEN. GOETZ MOVED** that SB 2198 be returned to the Senate floor from the **Industry, Business and Labor Committee** and be rereferred to the **Transportation Committee**, which motion prevailed. Pursuant to Sen. Goetz's motion, SB 2198 was rereferred.

**MOTION**

**SEN. GOETZ MOVED** that SB 2197, SB 2234, SB 2240, SB 2278, and SB 2304 be returned to the Senate floor from the **Industry, Business and Labor Committee** and be rereferred to the **Human Services Committee**, which motion prevailed. Pursuant to Sen. Goetz's motion, SB 2197, SB 2234, SB 2240, SB 2278, and SB 2304 were rereferred.

**MOTION**

**SEN. GOETZ MOVED** that SB 2250 be returned to the Senate floor from the **Political Subdivisions Committee** and be rereferred to the **Judiciary Committee**, which motion prevailed. Pursuant to Sen. Goetz's motion, SB 2250 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 12:30 p.m., Friday, January 24, 1997, which motion prevailed.

**REPORT OF STANDING COMMITTEE**

**SB 2008: Appropriations Committee (Sen. Nething, Chairman)** recommends **DO PASS** (10 YEAS, 0 NAYS, 3 ABSENT AND NOT VOTING). SB 2008 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2023: Appropriations Committee (Sen. Nething, Chairman)** recommends **DO PASS** (10 YEAS, 0 NAYS, 3 ABSENT AND NOT VOTING). SB 2023 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2030: Judiciary Committee (Sen. W. Stenehjem, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2030 was placed on the Sixth order on the calendar.

Page 1, line 10, after "chapter" insert "12.1-17," and after "12.1-27.2" insert a comma

Page 2, line 2, after the third comma insert "teachers,"

Page 2, line 4, after the period insert "The adjudication information released to school personnel under this subsection must be placed in the child's education records and is confidential."

Page 2, line 9, after "agency" insert "or school district"

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**SB 2050: Natural Resources Committee (Sen. Traynor, Chairman)** recommends **DO NOT PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2050 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2066: Appropriations Committee (Sen. Nething, Chairman)** recommends **DO PASS** (11 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). SB 2066 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2069: Appropriations Committee (Sen. Nething, Chairman)** recommends **DO PASS** (11 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). SB 2069 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2111: Appropriations Committee (Sen. Nething, Chairman)** recommends **DO PASS** (10 YEAS, 0 NAYS, 3 ABSENT AND NOT VOTING). SB 2111 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2168: Judiciary Committee (Sen. W. Stenehjem, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). SB 2168 was placed on the Sixth order on the calendar.

Page 1, line 6, remove "married"

Page 1, line 7, after "person" insert "subject to prosecution under this section" and replace "that person's" with "a"

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**SB 2179: Industry, Business and Labor Committee (Sen. Mutch, Chairman)** recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2179 was placed on the Eleventh order on the calendar.

**FIRST READING OF SENATE BILLS**

Sens. Klein, Andrist, Christmann and Reps. DeKrey, Koppelman, Wald introduced:

**SB 2313:** A BILL for an Act to amend and reenact section 15-21-01 of the North Dakota Century Code, relating to qualifications for the superintendent of public instruction.

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

Sens. Thane, Kringstad introduced:

**SB 2314:** A BILL for an Act to amend and reenact section 15-20.2-04 of the North Dakota Century Code, relating to the membership of area vocational and technology center boards.

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

Sens. Thane, Krauter, Tomac and Reps. Carlisle, Thompson introduced:

**SB 2315:** A BILL for an Act to create and enact a new section to chapter 4-35 of the North Dakota Century Code, relating to proof of financial responsibility for persons engaged in commercial chemical application; and to provide an effective date.

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

Sens. G. Nelson, Mathern and Reps. Dorso, Boucher introduced:

**SB 2316:** A BILL for an Act to create and enact a new section to chapter 54-03 of the North Dakota Century Code, relating to the convening of a special session of the legislative assembly to consider vetoed legislation.

Was read the first time and referred to the **Government and Veterans Affairs Committee**.

**FIRST READING OF SENATE CONCURRENT RESOLUTION**

Sens. Nalewaja, Krebsbach, Robinson and Reps. Carlisle, Kliniske, Mahoney introduced:

**SCR 4018:** A concurrent resolution for the amendment of section 3 of article VI of the Constitution of North Dakota, relating to rulemaking authority of the supreme court regarding reciprocal discovery.

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

**FIRST READING OF HOUSE BILLS**

**HB 1032:** A BILL for an Act to amend and reenact section 48-01.1-06 of the North Dakota Century Code, relating to the multiple prime bid requirement for public improvement contracts.

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

**HB 1102:** A BILL for an Act to amend and reenact section 61-32-03 of the North Dakota Century Code, relating to drainage permits.

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

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

**William C. Parker, Secretary**