

JOURNAL OF THE SENATE

Fifty-sixth Legislative Assembly

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Bismarck, January 27, 1999

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

The prayer was offered by Chaplain Darrel Aleson, St. Alexius Medical Center, Bismarck.

The roll was called and all members were present.

A quorum was declared by the President.

COMMUNICATION FROM GOVERNOR EDWARD T. SCHAFER

January 4, 1999

Pursuant to NDCC 53-06.1-01.1, I am hereby nominating Allan Stenehjem of Bismarck, North Dakota, to serve on the North Dakota State Gaming Commission. He succeeds Robert O. Wefald, Bismarck, who resigned November 3, 1998.

I would appreciate the Senate confirming this nomination prior to its adjournment. Thank you for your attention.

COMMUNICATION FROM GOVERNOR EDWARD T. SCHAFER

January 4, 1999

Pursuant to NDCC 15-10-05, I am hereby nominating Dr. William B. Isaacson, of Stanley, to serve on the State Board of Higher Education, succeeding Cynthia Kaldor, whose term expired June 30, 1998.

Dr. Isaacson's name was submitted in accordance with NDCC 15-10-02. He is not a graduate of any North Dakota institution of higher education and meets the requirements of NDCC Chapter 15-10. Therefore, I ask the Senate to consider confirming William B. Isaacson for this position.

I would appreciate the Senate confirming this nomination within the first 30 legislative days of the session. Thank you for your consideration.

COMMUNICATION FROM GOVERNOR EDWARD T. SCHAFER

January 27, 1999

Pursuant to NDCC 53-06.1-01.1, I am hereby re-appointing the following to serve on the North Dakota State Gaming Commission:

- Ms. Lois Ivers Altenburg, Fargo; effective July 1, 1998, and extending to July 1, 2001;
- Ms. Sandi Frenzel, Dickinson; effective July 1, 1997, and extending to July 1, 2000;
- Mr. Carrol Torgerson, Cooperstown; effective July 1, 1997, and extending to July 1, 2000.

Pursuant to NDCC 53-06.1-01.1, I am hereby nominating Mr. James P. Wang of Minnewaukan, North Dakota, to complete his term on the North Dakota State Gaming Commission, effective July 1, 1996, and extending to July 1, 1999.

I would appreciate the Senate confirming the nomination and re-appointments prior to its adjournment. Thank you for your attention.

REPORT OF PROCEDURAL COMMITTEE

MADAM PRESIDENT: Your procedural **Committee on Committees (Sen. G. Nelson, Chairman)** announces the appointment of Sens. G. Nelson, Nething, St. Aubyn, Mutch, Freeborg, T. Mathern, and Krauter to the Committee to approve the Board of Higher Education nominees.

SEN. G. NELSON MOVED that the report be adopted, which motion prevailed.

REPORT OF PROCEDURAL COMMITTEE

MADAM PRESIDENT: Your procedural **Committee on Committees (Sen. G. Nelson, Chairman)** announces the appointment of Sens. W. Stenehjem, Lee, Thane, Krebsbach, Grindberg, Redlin, and Lindaas to the Committee to approve the North Dakota State Gaming Commission nominees.

SEN. G. NELSON MOVED that the report be adopted, which motion prevailed.

REPORT OF PROCEDURAL COMMITTEE

MADAM PRESIDENT: Your procedural **Committee on Committees (Sen. G. Nelson, Chairman)** announces the appointment of Sens. Watne, Kringstad, and C. Nelson to the **Senate Memorial Committee**.

SEN. G. NELSON MOVED that the report be adopted, which motion prevailed.

CONSIDERATION OF AMENDMENTS

SB 2119: SEN. D. MATHERN (Industry, Business and Labor Committee) MOVED that the amendments on SJ pages 169-170 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

CONSIDERATION OF AMENDMENTS

SB 2263: SEN. KLEIN (Industry, Business and Labor Committee) MOVED that the amendments on SJ pages 170-171 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

SECOND READING OF SENATE BILL

SB 2110: A BILL for an Act to create and enact a new section to chapter 32-12.2 of the North Dakota Century Code, relating to establishment of a risk management motor vehicle accident review board; and to amend and reenact subdivision a of subsection 2 of section 28-32-01 of the North Dakota Century Code, relating to an exemption from the Administrative Agencies Practices Act.

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 49 YEAS, 0 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

YEAS: Andrist; Bercier; Bowman; Christmann; Cook; DeMers; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kelsh; Kilzer; Kinnoin; Klein; Krauter; Krebsbach; Kringstad; Kroeplin; Lee; Lindaas; Lyson; Mathern, D.; Mathern, T.; Mutch; Mutzenberger; Naaden; 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; Wardner; Watne

Engrossed SB 2110 passed and the title was agreed to.

SECOND READING OF SENATE BILL

SB 2130: A BILL for an Act to amend and reenact sections 11-14-18, 11-22-04, 11-28.3-11, 16.1-14-15, 18-11-22, 23-30-09, 26.1-21-09, 36-15-09, 36-22-09, 44-09-26, 48-02-07, 49-17.2-27, 54-10-03, 54-10-14, 54-10-19, 61-03-03, and 61-03-18 of the North Dakota Century Code, relating to the duties of the state auditor; and to repeal section 25-07-09 of the North Dakota Century Code, relating to the collection of clothing account at the school for the deaf.

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 49 YEAS, 0 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

YEAS: Andrist; Bercier; Bowman; Christmann; Cook; DeMers; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kelsh; Kilzer; Kinnoin; Klein; Krauter; Krebsbach; Kringstad; Kroeplin; Lee; Lindaas; Lyson; Mathern, D.; Mathern, T.; Mutch; Mutzenberger; Naaden; 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; Wardner; Watne

Engrossed SB 2130 passed and the title was agreed to.

SECOND READING OF SENATE BILL

SB 2199: A BILL for an Act to create and enact a new section to chapter 15-34.1 of the North Dakota Century Code, relating to participation in extracurricular activities by students

receiving home education; and to amend and reenact subsection 4 of section 15-34.1-06 of the North Dakota Century Code, relating to home education.

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 49 YEAS, 0 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

YEAS: Andrist; Bercier; Bowman; Christmann; Cook; DeMers; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kelsh; Kilzer; Kinnoin; Klein; Krauter; Krebsbach; Kringstad; Kroeplin; Lee; Lindaas; Lyson; Mathern, D.; Mathern, T.; Mutch; Mutzenberger; Naaden; 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; Wardner; Watne

Engrossed SB 2199 passed and the title was agreed to.

SECOND READING OF SENATE BILL

SB 2053: A BILL for an Act to amend and reenact section 57-02-27.2 of the North Dakota Century Code, relating to the capitalization rate used for valuation of agricultural property for property tax purposes; and to provide an effective date.

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 1 YEA, 48 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

YEAS: Stenehjem, B.

NAYS: Andrist; Bercier; Bowman; Christmann; Cook; DeMers; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kelsh; Kilzer; Kinnoin; Klein; Krauter; Krebsbach; Kringstad; Kroeplin; Lee; Lindaas; Lyson; Mathern, D.; Mathern, T.; Mutch; Mutzenberger; Naaden; Nelson, C.; Nelson, G.; Nething; O'Connell; Redlin; Robinson; Sand; Schobinger; Solberg; St. Aubyn; Stenehjem, W.; Tallackson; Thane; Thompson; Tomac; Traynor; Urlacher; Wanzek; Wardner; Watne

SB 2053 lost.

SECOND READING OF SENATE BILL

SB 2334: A BILL for an Act to create and enact two new sections to chapter 57-20 of the North Dakota Century Code, relating to notice and preservation of tax liens; to amend and reenact sections 11-11-13, 11-13-07, 11-27-08, 15-08-19, 21-02-01, 32-31-01, 32-31-02, 32-31-03, subsection 60 of section 40-05-01, section 40-25-03, subsection 3 of section 57-02-08, sections 57-20-13, 57-22-22, 57-23-07, 57-25-01, 57-25-02, 57-25-04, 57-25-05, 57-28-01, 57-28-02, 57-28-03, 57-28-04, 57-28-05, 57-28-06, 57-28-07, 57-28-08, 57-28-09, 57-28-10, 57-28-14, 57-28-18, 57-28-19, 57-28-19.1, 57-28-22, 57-28-23, 57-29-01, 57-45-05, 57-45-11, 57-45-12, 61-01-21, 61-07-05, 61-09-15, 61-16.1-31, 61-21-52, and 61-35-87 of the North Dakota Century Code, relating to sales of property for delinquent taxes and provisions for foreclosure of tax liens for unpaid property taxes; to repeal sections 40-25-04, 40-25-05, 40-25-08, 40-25-09, 40-25-10, 57-20-24, 57-20-25, chapters 57-24, 57-26, 57-27, and section 57-28-21 of the North Dakota Century Code, relating to sales of property for delinquent taxes; and to provide an effective date.

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 49 YEAS, 0 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

YEAS: Andrist; Bercier; Bowman; Christmann; Cook; DeMers; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kelsh; Kilzer; Kinnoin; Klein; Krauter; Krebsbach; Kringstad; Kroeplin; Lee; Lindaas; Lyson; Mathern, D.; Mathern, T.; Mutch; Mutzenberger; Naaden; 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; Wardner; Watne

SB 2334 passed and the title was agreed to.

SECOND READING OF SENATE CONCURRENT RESOLUTION

SCR 4004: A concurrent resolution directing the Legislative Council to study the possibility of creating an incentive package to assist rural communities and nursing facilities in closing or significantly reducing bed capacity and providing alternative long-term care services.

The question being on the final adoption of the resolution, which has been read, and has committee recommendation of DO PASS.

SCR 4004 was declared adopted on a voice vote, and the title was agreed to.

SECOND READING OF HOUSE BILL

HB 1054: A BILL for an Act to amend and reenact subsection 15 of section 57-02-08 of the North Dakota Century Code, relating to application of the property tax exemption for farm buildings; and to provide an effective date.

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 49 YEAS, 0 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

YEAS: Andrist; Bercier; Bowman; Christmann; Cook; DeMers; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kelsh; Kilzer; Kinnoin; Klein; Krauter; Krebsbach; Kringstad; Kroepelin; Lee; Lindaas; Lyson; Mathern, D.; Mathern, T.; Mutch; Mutzenberger; Naaden; 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; Wardner; Watne

HB 1054 passed and the title was agreed to.

MOTION

SEN. ST. AUBYN MOVED that SB 2396 be returned to the Senate floor from the **Human Services Committee** and be rereferred to the **Industry, Business and Labor Committee**, which motion prevailed. Pursuant to Sen. St. Aubyn's motion, SB 2396 was rereferred.

MESSAGE TO THE SENATE FROM THE HOUSE (LANCE HAGEN, CHIEF CLERK)

MADAM PRESIDENT: The House has passed and your favorable consideration is requested on: HB 1132, HB 1195, HB 1208, HB 1222, HB 1229, HB 1234, HB 1259.

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 2066, SB 2111, SB 2135, SB 2156, SB 2161, SB 2181, SB 2198, SB 2216, SB 2251, SB 2364, SCR 4001.

MOTION

SEN. ST. AUBYN MOVED that the Senate be on the Fifth and Thirteenth orders of business and at the conclusion of those orders, the Senate stand adjourned until 1:00 p.m., Thursday, January 28, 1999, which motion prevailed.

REPORT OF STANDING COMMITTEE

SB 2068: Education Committee (Sen. Freborg, Chairman) recommends **BE PLACED ON THE CALENDAR WITHOUT RECOMMENDATION** (6 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). SB 2068 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2103: Finance and Taxation Committee (Sen. Urlacher, Chairman) recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2103 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2169: Judiciary Committee (Sen. W. Stenehjem, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS**

(6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2169 was placed on the Sixth order on the calendar.

Page 3, line 4, remove "the power to adjust under subsection 1 of section 59-04.2-03 or"

Page 3, line 12, after the third boldfaced period insert "(Reserved)"

Page 3, remove lines 13 through 31

Page 4, remove lines 1 through 31

Page 5, remove lines 1 through 19

Page 13, line 26, replace "If a trustee determines that" with "(Reserved)"

Page 13, remove lines 27 through 31

Page 14, remove lines 1 through 5

Page 17, line 3, after the third boldfaced period insert "(Reserved)"

Page 17, remove lines 4 through 16

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2174: Judiciary Committee (Sen. W. Stenehjem, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2174 was placed on the Sixth order on the calendar.

Page 1, line 1, remove "to create and enact section 30.1-31-01.1 of the North Dakota Century Code,"

Page 1, line 2, remove "relating to claims against nonprobate transferees;"

Page 1, line 4, after the first comma insert "and" and remove ", sections 30.1-31-01,"

Page 1, line 5, remove "30.1-31-11, and 30.1-31-29"

Page 1, line 6, replace "; and to repeal section 30.1-31-12 of the North Dakota Century Code, relating to claims" with a period

Page 1, remove line 7

Page 6, remove lines 9 through 30

Page 7, remove lines 1 through 31

Page 8, remove lines 1 through 30

Page 9, remove lines 1 through 19

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2177: Finance and Taxation Committee (Sen. Urlacher, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2177 was placed on the Sixth order on the calendar.

Page 1, line 19, after the sixth comma insert "57-43.2-16,"

Page 14, line 17, remove "order"

Page 35, line 3, replace "or" with an underscored comma and after "distributor" insert ", or retailer"

Page 35, line 4, remove ", on the wholesale distribution of special"

Page 35, line 5, remove "fuel to a retailer,"

Page 35, line 9, after the first underscored comma insert "on a sale by a distributor to a retailer,"

Page 35, line 12, remove "to the retailer and" and remove "A retailer who paid the tax to the supplier or"

Page 35, remove line 13

Page 36, line 1, replace "or" with an underscored comma and after "distributor" insert ", or retailer"

Page 36, line 2, remove ", on the wholesale distribution of special"

Page 36, line 3, remove "fuel to a retailer,"

Page 36, line 7, after the first underscored comma insert "on a sale by a distributor to a retailer,"

Page 36, line 10, remove "to the retailer and" and remove "A retailer who paid the tax to the supplier or"

Page 36, remove line 11

Page 37, line 22, after the first underscored comma insert "a sale by a distributor to a retailer,"

Page 37, line 24, remove "retailer and to the"

Page 39, line 13, after the fourth underscored comma insert "retailer,"

Page 39, line 20, after the second underscored comma insert "retailer,"

Page 40, line 27, after the first underscored comma insert "retailer,"

Page 42, line 13, remove "order"

Page 45, line 18, after the third underscored comma insert "retailer,"

Page 45, line 23, after the third underscored comma insert "retailer,"

Page 63, line 26, remove "order"

Page 76, line 21, after the sixth comma insert "57-43.2-16,"

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2217: Finance and Taxation Committee (Sen. Urlacher, Chairman) recommends **DO PASS** (6 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). SB 2217 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2253: Judiciary Committee (Sen. W. Stenehjem, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2253 was placed on the Sixth order on the calendar.

Page 1, line 17, overstrike "an official designated"

Page 1, line 18, overstrike "by the respective facility to receive reports of significant infectious diseases within" and after the second "facility" insert "administrator or the facility administrator's designee. Further release of information on any individual known to have human immunodeficiency virus infection may only be provided to medical personnel providing direct care to the individual"

Page 2, line 8, replace "department" with "facility having physical custody of the test subject"

Page 2, line 10, after the underscored comma insert "to"

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2265: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2265 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2318: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2318 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2325: Judiciary Committee (Sen. W. Stenehjem, Chairman) recommends **DO NOT PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2325 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2326: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2326 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SCR 4008: Human Services Committee (Sen. Thane, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SCR 4008 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SCR 4009: Judiciary Committee (Sen. W. Stenehjem, Chairman) recommends **DO NOT PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SCR 4009 was placed on the Eleventh order on the calendar.

FIRST READING OF HOUSE BILLS

HB 1132: A BILL for an Act to amend and reenact subsection 6 of section 28-32-02 of the North Dakota Century Code, relating to the length of time that an emergency rule may remain in effect before final adoption; and to provide an effective date.

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

HB 1195: A BILL for an Act to amend and reenact section 20.1-08-04.5 of the North Dakota Century Code, relating to the muzzleloading deer hunting season.

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

HB 1208: A BILL for an Act to amend and reenact subsection 7 of section 55-05-02 of the North Dakota Century Code, relating to supervision of the International Peace Garden by the state parks and recreation department; to provide an effective date; and to declare an emergency.

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

HB 1222: A BILL for an Act to amend and reenact section 11-11.1-01 of the North Dakota Century Code, relating to elections to discontinue county job development authorities.

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

HB 1229: A BILL for an Act to amend and reenact section 39-12-05.3 of the North Dakota Century Code, relating to weight limitations for vehicles on highways that are not in the interstate system.

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

HB 1234: A BILL for an Act to amend and reenact section 27-09.1-05.1 of the North Dakota Century Code, relating to selection of jurors from a judicial district.

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

HB 1259: A BILL for an Act to amend and reenact subsection 1 of section 21-10-01 and section 65-04-02 of the North Dakota Century Code, relating to the membership of the state investment board and to workers' compensation reserves.

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

The Senate stood adjourned pursuant to Senator St. Aubyn's motion.

WILLIAM C. PARKER, Secretary