

Third Day of Legislative Organizational Session

JOURNAL OF THE SENATE

Sixty-second Legislative Assembly

* * * * *

Bismarck, December 8, 2010

The Senate convened at 8:30 a.m., with President Wrigley presiding.

The prayer was offered by Chaplain Gary Heaton, Medcenter One, Bismarck.

The roll was called and all members were present, except Senators Fischer and Miller, and the vacancy in District 20.

A quorum was declared by the President.

MOTION

SEN. CHRISTMANN MOVED that the Senate stand in recess until 9:10 a.m., which motion prevailed.

THE SENATE RECONVENED pursuant to recess taken, with President Wrigley presiding.

REPORT OF PROCEDURAL COMMITTEE

MR. PRESIDENT: Your procedural **Committee** on **Committees** (**Sen. Stenehjem, Chairman**) recommends the following as chairmen, and members of standing committees:

Appropriations Committee

Committee Chairman - Holmberg
Vice Chairman - Bowman
Vice Chairman - Grindberg
Christmann
Fischer
Kilzer
Krebsbach
Wardner
Erbele
Wanzek

O'Connell
Robinson
Warner

Education Committee

Committee Chairman - Freborg
Vice Chairman - Schaible
G. Lee
Flakoll
Luick

Heckaman
Marcellais

Finance and Taxation Committee

Committee Chairman - Cook
Vice Chairman - Miller
Oehlke
Hogue
Burckhard

Dotzenrod
Triplett

Human Services Committee

Committee Chairman - J. Lee
Vice Chairman - Uglem
Dever
Berry

Mathern

Industry, Business and Labor Committee

Committee Chairman - Klein
Vice Chairman - Nodland

Schneider
District 20

Andrist
Laffen
Larsen

Judiciary Committee

Committee Chairman - Nething
Vice Chairman - Olafson
Lyson
Sorvaag
Sitte

Nelson

Agriculture Committee

Committee Chairman - Flakoll
Vice Chairman - Larsen
Klein
Miller
Luick

Heckaman
District 20

Government and Veterans Affairs Committee

Committee Chairman - Dever
Vice Chairman - Sorvaag
Cook
Berry
Schaible

Nelson
Marcellais

Natural Resources Committee

Committee Chairman - Lyson
Vice Chairman - Hogue
Freborg
Uglen
Burckhard

Schneider
Triplett

Political Subdivisions Committee

Committee Chairman - Andrist
Vice Chairman - Laffen
Olafson
J. Lee

Dotzenrod

Transportation Committee

Committee Chairman - G. Lee
Vice Chairman - Oehlke
Nething
Sitte
Nodland

Mathern

SEN. HOLMBERG MOVED that the report be adopted, which motion prevailed on a voice vote.

REPORT OF PROCEDURAL COMMITTEE

MR. PRESIDENT: Your procedural **Committee on Arrangements for Senate Committee Rooms (Sen. Christmann, Chairman)** recommends that the Senate use the same committee rooms as were used during the Sixty-first Legislative Session. The committee rooms are as follows:

COMMITTEE

Appropriations
Education
Government and Veterans Affairs
Finance and Taxation
Transportation
Human Services
Political Subdivisions
Industry, Business and Labor
Agriculture
Judiciary
Natural Resources

MEETING DAYS

MTWThF
MTW
ThF
MTW
ThF
MTW
ThF
MTW
ThF
MTW
ThF

ROOM

Harvest
Missouri River
Missouri River
Lewis and Clark
Lewis and Clark
Red River
Red River
Roosevelt
Roosevelt
Fort Lincoln
Fort Lincoln

SEN. CHRISTMANN MOVED that the report be adopted, which motion prevailed on a voice vote.

MOTION

SEN. CHRISTMANN MOVED that the Senate stand in recess until 9:55 a.m., which motion prevailed.

THE SENATE RECONVENED pursuant to recess taken, with President Wrigley presiding.

REPORT OF PROCEDURAL COMMITTEE

MR. PRESIDENT: Your procedural **Rules Committee (Sen. Holmberg, Chairman)** recommends that the Senate and Joint Rules of the Sixty-first Legislative Assembly, as adopted on Wednesday, December 3, 2008, and published in the 2009 Senate and House Rules and Committees book, with the following amendments, be adopted as the permanent rules of the Senate for the Sixty-second Legislative Assembly, and that the reading of this report be dispensed with:

SECTION 1. AMENDMENT. Subsections 4 and 5 of Senate Rule 204 are amended as follows:

4. The printer shall set aside ~~twenty-seven~~twenty-eight copies of the daily journal. Upon termination of the legislative session, the printer shall deliver these copies to the contract binder, who shall assemble the copies into ~~twenty-seven~~twenty-eight sets of permanent journals.
5. The permanent journals must be bound in hard covers. Two of these sets must be deposited with the Secretary of State, who shall preserve these sets and attach the Secretary of State's certificate thereto showing the date of delivery and attesting that the copies are identical and official journals as delivered to the Secretary of State. The Secretary of State shall forward one set to the Supreme Court Library, one set to the Law School Library at the University of North Dakota, eight sets to the State Library, two sets to the Attorney General, ~~five~~six sets to the Legislative Council, one set to the Secretary of the Senate, and one set to each judicial district as determined by the presiding judge of the district.

SECTION 2. AMENDMENT. Senate Rule 306 is amended as follows:

306. Rules of debate. No member may speak more than twice on the same ~~subject~~question without leave of the Senate, nor more than once until every member choosing to speak on the ~~subject~~question pending has spoken. No member may speak for more than ten minutes the first time, nor more than five minutes the second time. This rule does not apply to the Majority and Minority Leaders and the chairman of the committee in charge of the bill, or a spokesman designated by that chairman.

SECTION 3. AMENDMENT. Subsection 2 of Senate Rule 318 is amended as follows:

2. The following questions require a majority vote of the members-elect of the Senate:
 - a. Passage of bills, as provided in Section 13, Article IV, of the Constitution and Senate Rule 339.
 - b. Passage of proposed amendments to the Constitution of North Dakota, as provided in Section 16, Article IV, of the Constitution.
 - c. Ratification of amendments to the Constitution of the United States, as provided in Senate Rule 339.
 - d. To recede before a conference in a case where a majority governs, as provided in Joint Rule 202.
 - e. To constitute a quorum, as provided in Senate Rule 103.
 - f. Election of certain Senate employees, as provided in Senate Rule 206.

- g. Suspension of further proceedings under a call of the Senate, as provided in Senate Rule 303.
- h. Adoption of propositions of a divided question if the division would require a majority vote of the members-elect, as provided in Senate Rule 319.
- i. Reconsideration of questions other than adoption of amendments if before the end of the next legislative day, as provided in Senate Rule 347.
- j. Confirmation of executive nominations, as provided in Senate Rule 701.

SECTION 4. AMENDMENT. Subsection 4 of Senate Rule 329 is amended as follows:

- 4. Except for bills approved for introduction after the deadline for introduction of bills, all Senate bills required to be rereferred to the Appropriations Committee must be rereferred not later than the ~~twenty-third~~twenty-fifth legislative day and all House bills required to be rereferred to the Appropriations Committee must be rereferred not later than the ~~forty-seventh~~fifty-seventh legislative day. If an appropriation bill is not reported to the floor and rereferred as required herein, the bill is deemed rereferred and is under the jurisdiction of the Appropriations Committee at the end of the ~~twenty-third~~twenty-fifth or ~~forty-seventh~~fifty-seventh legislative day, as appropriate.

SECTION 5. AMENDMENT. Senate Rule 345 is amended as follows:

345. Recording remarks in journal. When a member desires to have the member's remarks, other than those in explanation of the member's vote, recorded in the journal, the member shall inform the Desk Reporter before speaking and the remarks must be recorded. Except for the Majority or Minority Leader or the Assistant Majority or Minority Leader with respect to the remarks of a member of that leader's party, no member may request the remarks of any other member be recorded in the journal.

SECTION 6. AMENDMENT. Senate Rule 346 is amended as follows:

346. Transmittal of measure to House - Notice of intention to reconsider.

- 1. After the second reading of a bill or resolution, the Secretary of the Senate shall retain the bill or resolution until the end of the next legislative day, unless the bill or resolution has previously been disposed of.
- 2. On the ~~thirty-third~~thirty-eighth and thirty-ninth legislative ~~day~~days and after the ~~forty-ninth~~fifty-ninth legislative day, the Secretary of the Senate shall transmit the bill or resolution to the House immediately upon adjournment of that day's session unless action on the bill or resolution is pending as the result of the Senate passing a motion to reconsider or unless the Majority or Minority Leader has given notice of intention to move the reconsideration of that bill or resolution.
- 3. After the ~~fifty-eighth~~sixty-eighth legislative day, the Secretary of the Senate shall transmit the bill or resolution to the House immediately after the second reading of the bill or resolution unless the Majority or Minority Leader has given notice of intention to move the reconsideration of that bill or resolution.
- 4. When a member in explaining the member's vote states to the Senate that the member's vote is for the purpose of reconsideration, that statement also is notice of such intention.
- 5. If notice is given by a member other than the Majority or Minority Leader but the motion to reconsider is not made before the end of the next legislative day, the Secretary of the Senate shall transmit the bill or resolution to the House at the end of that next legislative day.

SECTION 7. AMENDMENT. Senate Rule 347 is amended as follows:

347. Motion for reconsideration.

1. Any member may move for reconsideration of a question if any of the following apply:
 - a. The member voted on the prevailing side of the question ("prevailing side of the question" is the side that voted "aye" on a question that passed, and "nay" on a question that failed);
 - b. The member did not vote on the question; or
 - c. The member voted on the question and the ayes and nays were not recorded.
2. A motion to reconsider must be decided by a majority vote of the members-elect, except that a motion to reconsider adoption of an amendment must be decided by a majority vote of the members present.
3. In the case of a bill, resolution, or amendment to the Constitution, the motion to reconsider, if made after the end of the next legislative day following the action on the measure, requires a two-thirds vote of the members-elect.
4. The vote by which any measure passed or failed to pass may not be reconsidered more than once in any natural legislative day. For purposes of this subsection, a clincher motion that fails is not a motion to reconsider.
5. No motion to reconsider may be made unless the matter is in possession of the Senate.
6. Determination of any vote required under this rule must be by a verification vote.

SECTION 8. AMENDMENT. Subsection 3 of Senate Rule 402 is amended as follows:

3. Resolutions that propose amendments to the Constitution of North Dakota and resolutions directing the Legislative ~~Council~~Management to carry out a study may not be introduced after the ~~thirty-first~~thirty-sixth legislative day.

SECTION 9. AMENDMENT. Senate Rule 508 is amended as follows:

508. Reporting of measures. Except for an appropriations bill, a resolution proposing an amendment to the Constitution of the United States or the Constitution of North Dakota, or a resolution directing an interim study by the Legislative ~~Council~~Management, no Senate bill or resolution may be held in a committee for more than thirty legislative days after it is referred to the committee, unless an extension of time is granted by the Senate. Except for a bill introduced after the deadline for introducing bills, a resolution directing an interim study by the Legislative ~~Council~~Management or a resolution proposing an amendment to the Constitution of the United States or the Constitution of North Dakota, all Senate bills and resolutions must be reported back to the Senate no later than the ~~thirty-first~~thirty-sixth legislative day. A resolution directing an interim study by the Legislative ~~Council~~Management or proposing an amendment to the Constitution of the United States or the Constitution of North Dakota must be reported back to the Senate no later than the ~~thirty-seventh~~forty-second legislative day. A bill introduced after the deadline for introducing bills must be reported back to the Senate within five legislative days after the day of introduction. A bill or resolution not reported back as required by this rule must automatically be placed on the calendar without recommendation. House bills and resolutions must be reported back to the Senate by the ~~fifty-fifth~~sixty-fifth legislative day. House bills received after the crossover deadline must be reported back to the Senate within five legislative days after the day of receipt.

SECTION 10. AMENDMENT. Senate Rule 701 is amended as follows:

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

SECTION 11. AMENDMENT. Joint Rule 203 is amended as follows:

203. Limitation on messaging of measures - Crossover days.

1. A bill that has passed one house may not be sent to the other house for concurrence after the ~~thirty-fourth~~thirty-ninth legislative day, except a bill approved for introduction after the deadline for introduction of bills.
2. A resolution that has passed one house may not be sent to the other house for concurrence after the ~~fortieth~~forty-fifth legislative day, except a resolution approved for introduction after the deadline for introduction of that type of resolution.

SECTION 12. AMENDMENT. Joint Rule 207 is amended as follows:

207. Consideration of items on consent calendar.

1. No item on the consent calendar may be considered for adoption on the same legislative day it is placed on the consent calendar.
2. Bills or resolutions on the consent calendar are not debatable, except that the ~~President of the Senate or the Speaker of the House~~presiding officer shall allow a reasonable time for questions from the floor and shall permit the proponents of the bills or resolutions to answer the questions.
3. The question of the final passage of more than one item contained on the consent calendar may be voted on in a single vote if the vote is on either bills or resolutions and not on any combination thereof in the same vote.
4. Immediately before voting on the first consent calendar bills or resolutions, the ~~President of the Senate or the Speaker of the House~~presiding officer shall call to the attention of the members the fact that the next vote will be the vote on the bills or resolutions on the consent calendar. A recorded roll call vote is necessary on items on the consent calendar only if a recorded roll call vote is required under Senate or House Rule 340.

SECTION 13. AMENDMENT. Subsection 4 of Joint Rule 501 is amended as follows:

4. a. The agency or department preparing the fiscal note shall return the fiscal note along with the number of copies requested by the Legislative Council to the Legislative Council not later than five days from the date of the request.
- b. The Legislative Council shall retain three copies, shall provide one copy to the Office of Management and Budget, shall provide one copy to the Governor, and shall deliver the remaining copies to the Secretary of the Senate or the Chief Clerk of the House. Of those copies, one copy must be attached to the original bill or resolution, one copy must be filed with the Bill Clerk of the house wherein the bill or resolution originated, one copy must be provided to the ~~President~~presiding officer of the Senate, one copy must be provided to the ~~Speaker~~presiding officer of the House, and the remaining copies must be distributed as directed by the Secretary of the Senate or the Chief Clerk of the House, as appropriate.

SECTION 14. Joint Rule 604 is created as follows:

604. Publication of legislative documents. The Legislative Council shall arrange for the publication of legislative documents in accordance with constitutional and statutory requirements and the rules of the Senate and House and the Joint Rules. As published by the Legislative Council, the legislative documents, whether in electronic or print format, are the correct copies, deemed to be officially published.

SECTION 15. AMENDMENT. Joint Rule 802 is amended as follows:

802. Identification of representatives of the media. The Legislative Council may provide identification badges for individuals identified as representatives of the media by the North Dakota Newspaper Association and the North Dakota Broadcasters Association before

a regular session or by the statehouse correspondent of the Associated Press during a legislative session. The statehouse correspondent of the Associated Press shall determine the method for distribution of the badges to the appropriate individuals for use during the session to obtain access to the floor of the chamber as permitted by the Senate and House. The statehouse correspondent of the Associated Press shall notify the ~~President of the Senate and the Speaker of the House~~presiding officer of each house with respect to identification badges issued during the session.

SECTION 16. REPEAL. Senate Rule 105 is repealed.

SECTION 17. Except with respect to Senate Rules 201, 202, and 323, the Legislative Council shall replace references to the President with references to the presiding officer in the Senate Rules when the rules are republished in the rules book of the Sixty-second Legislative Assembly for the 2011 legislative session.

SEN. HOLMBERG MOVED that the report be adopted.

ROLL CALL

The question being on the motion to adopt the procedural committee report, the roll was called and there were 46 YEAS, 0 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING, 1 VACANCY.

YEAS: Andrist; Berry; Bowman; Burckhard; Christmann; Cook; Dever; Dotzenrod; Erbele; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Kilzer; Klein; Krebsbach; Laffen; Larsen; Lee, G.; Lee, J.; Luick; Lyson; Marcellais; Mathern; Miller; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Robinson; Schaible; Schneider; Sitte; Sorvaag; Stenehjerm; Taylor; Triplett; Uglem; Wanzek; Wardner; Warner

The motion prevailed on a recorded roll call vote.

MOTION

SEN. CHRISTMANN MOVED that the Senate stand in recess until 10:00 a.m., at which time there will be a Joint Session in the House, and that the Senate will then stand adjourned until 12:00 p.m., Tuesday, January 4, 2011, which motion prevailed.

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

William R. Horton, Secretary

