

JOURNAL OF THE SENATE

Fifty-fifth Legislative Assembly

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Bismarck, February 28, 1997

The Senate convened at 12:30 p.m., with President Myrdal presiding.

The prayer was offered by Pastor George Walker, District Superintendent for Evangelical Free Church of America.

The roll was called and all members were present except Senators Kringstad and Tallackson.

A quorum was declared by the President.

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

MR. SPEAKER: The Senate has passed unchanged: HB 1088, HB 1121, HB 1125, HB 1127, HB 1155, HB 1171, HB 1175, HB 1211, HB 1230, HB 1232, HB 1239, HB 1298, HCR 3008.

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

MR. SPEAKER: The Senate has amended and subsequently passed: HB 1069, HB 1119, HB 1152, HB 1178, HB 1256.

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

MR. SPEAKER: The President has signed and your signature is respectfully requested on: SB 2044, SB 2077, SB 2085, SB 2162, SB 2205, SB 2334.

MOTION

SEN. GOETZ MOVED that HB 1005, which is on the Fourteenth order, be laid over one legislative day, which motion prevailed.

SECOND READING OF HOUSE BILL

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.

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; Bowman; Christmann; Cook; DeMers; Fischer; Freborg; Goetz; Grindberg; Heitkamp; Holmberg; Kelsh; Kinnoin; Klein; Krauter; Krebsbach; 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: Kringstad; Tallackson

Engrossed HB 1102 passed and the title was agreed to.

SECOND READING OF HOUSE BILL

HB 1144: A BILL for an Act to create and enact a new section to chapter 15-39.1 of the North Dakota Century Code, relating to postretirement benefit adjustments under the teachers' fund for retirement; to amend and reenact subsection 2 of section 15-39.1-10 of the North Dakota Century Code, relating to the computation of benefits under the teachers' fund for retirement; and to provide for application.

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; Bowman; Christmann; Cook; DeMers; Fischer; Freborg; Goetz; Grindberg; Heitkamp; Holmberg; Kelsh; Kinnoin; Klein; Krauter; Krebsbach; 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: Kringstad; Tallackson

HB 1144 passed and the title was agreed to.

SECOND READING OF HOUSE BILL

HB 1247: A BILL for an Act to amend and reenact section 11-28.2-02 of the North Dakota Century Code, relating to compensation of members of boards of recreation service district commissioners.

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, 1 NAY, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

YEAS: Andrist; Berg; Bowman; Christmann; Cook; DeMers; Fischer; Freborg; Goetz; Grindberg; Heitkamp; Holmberg; Kelsh; Kinnoin; Klein; Krauter; Krebsbach; 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

NAYS: Yockim

ABSENT AND NOT VOTING: Kringstad; Tallackson

HB 1247 passed and the title was agreed to.

SECOND READING OF HOUSE BILL

HB 1250: A BILL for an Act to amend and reenact section 47-06-04.1 of the North Dakota Century Code, relating to the maintenance responsibilities of mobile home storm shelter owners.

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; Bowman; Christmann; Cook; DeMers; Fischer; Freborg; Goetz; Grindberg; Heitkamp; Holmberg; Kelsh; Kinnoin; Klein; Krauter; Krebsbach; 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: Kringstad; Tallackson

HB 1250 passed and the title was agreed to.

SECOND READING OF HOUSE BILL

HB 1272: A BILL for an Act to amend and reenact section 50-24.1-02.3 and subsection 1 of section 50-24.1-07 of the North Dakota Century Code, relating to funeral expenses in claims against the estates of former medicaid recipients.

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; Bowman; Christmann; Cook; DeMers; Fischer; Freborg; Goetz; Grindberg; Heitkamp; Holmberg; Kelsh; Kinnoin; Klein; Krauter; Krebsbach; 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: Kringstad; Tallackson

HB 1272 passed and the title was agreed to.

SECOND READING OF HOUSE BILL

HB 1282: A BILL for an Act to amend and reenact section 36-21.1-09 of the North Dakota Century Code, relating to the use of live beef and dairy cattle as a raffle prize; to provide an effective date; 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 48 YEAS, 0 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Andrist; Berg; Bowman; Christmann; Cook; DeMers; Fischer; 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: Tallackson

Engrossed HB 1282 passed, the title was agreed to, and the emergency clause was declared carried.

SECOND READING OF HOUSE BILL

HB 1284: A BILL for an Act to amend and reenact section 50-06-06.9 of the North Dakota Century Code, relating to insurance payments on behalf of a person with human immunodeficiency virus infection.

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; Bowman; Christmann; Cook; DeMers; Fischer; 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: Freborg; Tallackson

Engrossed HB 1284 passed and the title was agreed to.

SECOND READING OF HOUSE BILL

HB 1328: A BILL for an Act to repeal section 4-10.5-08 of the North Dakota Century Code, relating to soybean assessment refunds.

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 33 YEAS, 15 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Berg; Cook; DeMers; Fischer; Freborg; Goetz; Grindberg; Holmberg; Kinnoin; Klein; Krebsbach; Kringstad; LaFountain; Lee; Lips; Mathern; Mutzenberger; Naaden; Nalewaja; Nelson, C.; Nelson, G.; Nething; Robinson; Sand; Schobinger; Solberg; St. Aubyn; Stenehjem, W.; Traynor; Urlacher; Wanzek; Watne; Yockim

NAYS: Andrist; Bowman; Christmann; Heitkamp; Kelsh; Krauter; Lindaas; Mutch; O'Connell; Redlin; Stenehjem, B.; Thane; Thompson; Tomac; Wogsland

ABSENT AND NOT VOTING: Tallackson

HB 1328 passed and the title was agreed to.

SECOND READING OF HOUSE BILL

HB 1366: A BILL for an Act to amend and reenact section 15-27.2-04 of the North Dakota Century Code, relating to school district annexation proceedings.

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

YEAS: Andrist; Berg; Bowman; Christmann; Cook; DeMers; Fischer; 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: Tallackson

Engrossed HB 1366 passed and the title was agreed to.

SECOND READING OF SENATE CONCURRENT RESOLUTIONS AND HOUSE CONCURRENT RESOLUTION ON CONSENT CALENDAR

SCR 4045: A concurrent resolution directing the Legislative Council to study state funding of the office of clerk of district court, the issues and problems associated with the continued implementation of court unification, and the effective provision of judicial services to the citizens of this state.

SCR 4048: A concurrent resolution directing the Legislative Council to study the interrelationship of the postjudgment issues of child support and visitation, including the accountability of both parents to honor divorce orders and the development of a parenting education program that addresses the impact of divorce on children.

SCR 4049: A concurrent resolution directing the Legislative Council to study the feasibility and desirability of revising the sections of the North Dakota Century Code which relate to sexual offenses.

SCR 4053: A concurrent resolution directing the Legislative Council to study the prevention of and dispositional alternatives to juvenile crime with a focus on services offered to American Indian children.

SCR 4054: A concurrent resolution directing the Legislative Council to study whether the Department of Human Services should reimburse qualified service providers who provide assistive technology devices and services to individuals with disabilities.

SCR 4055: A concurrent resolution directing the Legislative Council to study the potential for expansion of extended area telecommunications service.

HCR 3014: A concurrent resolution urging Congress to enact legislation to allow an exception to the requirement that parents relinquish custody in order to receive out-of-home treatment services for children with serious emotional disorders.

The question being on the final adoption of the resolutions, which have been read.

SCR 4045, SCR 4048, SCR 4049, SCR 4053, SCR 4054, SCR 4055, and HCR 3014 were declared adopted on a voice vote, and the titles were agreed to.

MOTION

SEN. GOETZ MOVED that Reengrossed HB 1041 be returned to the Senate floor from the **Human Services Committee** and be rereferred to the **Appropriations Committee**, which motion prevailed. Pursuant to Sen. Goetz's motion, Reengrossed HB 1041 was rereferred.

MOTION

SEN. GOETZ MOVED that Engrossed HB 1410 be returned to the Senate floor from the **Natural Resources Committee** and be rereferred to the **Political Subdivisions Committee**, which motion prevailed. Pursuant to Sen. Goetz's motion, Engrossed HB 1410 was rereferred.

MOTION

SEN. GOETZ MOVED that Senate Rule 507 be amended to read "thirty-ninth" instead of "thirty-seventh" thereby extending the deadline for reporting Senate resolutions out of committee, which motion prevailed.

ANNOUNCEMENT

PRESIDENT MYRDAL ANNOUNCED the appointment of Sens. Watne, Kringstad, and C. Nelson to the Senate Memorial Committee.

MOTION

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

MOTION

SEN. GOETZ 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 1:30 p.m., Monday, March 3, 1997, which motion prevailed.

REPORT OF STANDING COMMITTEE

SCR 4026: 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). SCR 4026 was placed on the Sixth order on the calendar.

Page 1, line 19, after "Council" insert "investigate the availability of federal funds to assist in funding the study and"

Renumber accordingly

REPORT OF STANDING COMMITTEE

SCR 4042: 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). SCR 4042 was placed on the Sixth order on the calendar.

Page 1, line 5, replace "group home" with "developmental disability"

Page 1, line 6, replace "group home" with "provider"

Renumber accordingly

REPORT OF STANDING COMMITTEE

SCR 4043: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends **DO PASS** (4 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). SCR 4043 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SCR 4044: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends **DO NOT PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SCR 4044 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SCR 4050: Natural Resources Committee (Sen. Traynor, Chairman) recommends **DO PASS** and **BE PLACED ON THE CONSENT CALENDAR** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SCR 4050 was placed on the Tenth order on the calendar.

REPORT OF STANDING COMMITTEE

SCR 4052: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends **DO PASS** (6 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). SCR 4052 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1056: Natural Resources Committee (Sen. Traynor, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1056 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1082: Natural Resources Committee (Sen. Traynor, Chairman) recommends **DO PASS** (4 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). HB 1082 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1094: Natural Resources Committee (Sen. Traynor, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1094 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1117: Government and Veterans Affairs Committee (Sen. Krebsbach, Chairman) recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1117 was rereferred to the **Appropriations Committee**.

REPORT OF STANDING COMMITTEE

HB 1118: Government and Veterans Affairs Committee (Sen. Krebsbach, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1118 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1133: Natural Resources Committee (Sen. Traynor, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1133 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1195: 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). HB 1195 was placed on the Sixth order on the calendar.

Page 1, line 1, replace the first "subsection" with "subsections 5 and"

Page 1, line 5, replace "Subsection" with "Subsections 5 and"

Page 1, line 6, replace "is" with "are"

Page 1, after line 6, insert:

"5. Class A misdemeanor, for which a maximum penalty of one year's imprisonment, a fine of ~~one~~ two thousand dollars, or both, may be imposed."

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1254, as engrossed: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1254 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1281, as engrossed: Transportation Committee (Sen. B. Stenehjem, Chairman) recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1281 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1288: Political Subdivisions Committee (Sen. Andrist, Chairman) recommends **DO PASS** (6 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). HB 1288 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1309: Transportation Committee (Sen. B. Stenehjem, Chairman) recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1309 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1390, as engrossed: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1390 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1420, as engrossed: Political Subdivisions Committee (Sen. Andrist, Chairman) recommends **DO PASS** (6 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). Engrossed HB 1420 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1421, as engrossed: Political Subdivisions Committee (Sen. Andrist, Chairman) recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1421 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1451: Political Subdivisions Committee (Sen. Andrist, Chairman) recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1451 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HCR 3002: Government and Veterans Affairs Committee (Sen. Krebsbach, Chairman) recommends **DO PASS** and **BE PLACED ON THE CONSENT CALENDAR** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HCR 3002 was placed on the Tenth order on the calendar.

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

William C. Parker, Secretary