

JOURNAL OF THE SENATE

Fifty-seventh Legislative Assembly

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Bismarck, January 23, 2001

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

The prayer was offered by Pastor Lester Wolfgram, Shepherd of the Valley Lutheran, Bismarck.

The roll was called and all members were present.

A quorum was declared by the President.

CORRECTION AND REVISION OF THE JOURNAL

MR. PRESIDENT: Your **Committee on Correction and Revision of the Journal (Sen. Watne, Chairman)** has carefully examined the Journal of the Ninth Day and recommends that it be corrected as follows and when so corrected, recommends that it be approved:

Page 120, line 12, replace "elevated" with "evaluated"

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

CONSIDERATION OF AMENDMENTS

SB 2078: SEN. LEE (Political Subdivisions Committee) MOVED that the amendments on SJ page 131 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

CONSIDERATION OF AMENDMENTS

SB 2105: SEN. C. NELSON (Judiciary Committee) MOVED that the amendments on SJ pages 131-132 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

MOTION

SEN. HEITKAMP MOVED that SB 2221 be returned to the Senate floor from the **Finance and Taxation Committee** for the purpose of withdrawal, which motion prevailed.

REQUEST

SEN. HEITKAMP REQUESTED the unanimous consent of the Senate to withdraw SB 2221. There being no objection, it was so ordered by the President.

SECOND READING OF SENATE BILL

SB 2025: A BILL for an Act to create and enact a new section to chapter 20.1-02 of the North Dakota Century Code, relating to the deerproof hay yard program.

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, 8 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

YEAS: Andrist; Bercier; Bowman; Christenson; Christmann; Erbele; Espegard; Every; Freborg; Heitkamp; Holmberg; Kelsh; Kilzer; Klein; Krauter; Krebsbach; Kroepelin; Lee; Lindaas; Lyson; Mathern, D.; Mathern, T.; Mutch; Nelson, C.; Nelson, G.; Nething; Nichols; O'Connell; Polovitz; Robinson; Solberg; Tallackson; Thane; Tollefson; Tomac; Traynor; Trenbeath; Urlacher; Wanzek; Wardner; Watne

NAYS: Cook; Dever; Fischer; Flakoll; Grindberg; Kringstad; Schobinger; Stenehjem

SB 2025 passed and the title was agreed to.

SECOND READING OF SENATE BILL

SB 2100: A BILL for an Act to create and enact a new section to chapter 54-18 of the North Dakota Century Code, relating to prepayment by the North Dakota mill and elevator association to contractors for construction or equipment; 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 49 YEAS, 0 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

YEAS: Andrist; Bercier; Bowman; Christenson; Christmann; Cook; Dever; Erbele; Espegard; Every; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kelsh; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Kroepflin; Lee; Lindaas; Lyson; Mathern, D.; Mathern, T.; Mutch; Nelson, C.; Nelson, G.; Nething; Nichols; O'Connell; Polovitz; Robinson; Schobinger; Solberg; Stenehjerm; Tallackson; Thane; Tollefson; Tomac; Traynor; Trenbeath; Urlacher; Wanzek; Wardner; Watne

Engrossed SB 2100 passed, the title was agreed to, and the emergency clause was declared carried.

SECOND READING OF SENATE BILL

SB 2120: A BILL for an Act to amend and reenact section 38-08-09.5 of the North Dakota Century Code, relating to the industrial commission's oversight of the creation of units for the further development of oil and gas and changing ratification requirements for these units.

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; Christenson; Christmann; Cook; Dever; Erbele; Espegard; Every; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kelsh; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Kroepflin; Lee; Lindaas; Lyson; Mathern, D.; Mathern, T.; Mutch; Nelson, C.; Nelson, G.; Nething; Nichols; O'Connell; Polovitz; Robinson; Schobinger; Solberg; Stenehjerm; Tallackson; Thane; Tollefson; Tomac; Traynor; Trenbeath; Urlacher; Wanzek; Wardner; Watne

Engrossed SB 2120 passed and the title was agreed to.

SECOND READING OF SENATE BILL

SB 2167: A BILL for an Act to amend and reenact subsection 1 of section 4-35-09 and subsection 13 of section 4-35-15 of the North Dakota Century Code, relating to regulation of pesticide applicators.

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; Christenson; Christmann; Cook; Dever; Erbele; Espegard; Every; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kelsh; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Kroepflin; Lee; Lindaas; Lyson; Mathern, D.; Mathern, T.; Mutch; Nelson, C.; Nelson, G.; Nething; Nichols; O'Connell; Polovitz; Robinson; Schobinger; Solberg; Stenehjerm; Tallackson; Thane; Tollefson; Tomac; Traynor; Trenbeath; Urlacher; Wanzek; Wardner; Watne

Engrossed SB 2167 passed and the title was agreed to.

SECOND READING OF SENATE BILL

SB 2014: A BILL for an Act to provide an appropriation for defraying the expenses of the children's services coordinating committee; and to provide a statement of legislative intent.

REQUEST

SEN. G. NELSON REQUESTED that his statement be printed in the Journal, which request was granted.

STATEMENT OF MAJORITY LEADER, SENATOR GARY NELSON

Today the Senate is considering its first agency appropriations bill containing funding for state employees' salaries and fringe benefits. The bill contains the salary and fringe benefit enhancement recommended in the executive budget for the 2001-03 biennium. The Senate has not yet determined its state employee salary and health insurance adjustment policy. This policy will be decided at a later date, will affect all agencies uniformly and consistently, and will result in agency appropriation bills being adjusted accordingly.

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; Christenson; Christmann; Cook; Dever; Erbele; Espegard; Every; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kelsh; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Kroeplin; Lee; Lindaas; Lyson; Mathern, D.; Mathern, T.; Mutch; Nelson, C.; Nelson, G.; Nething; Nichols; O'Connell; Polovitz; Robinson; Schobinger; Solberg; Stenehjem; Tallackson; Thane; Tollefson; Tomac; Traynor; Trenbeath; Urlacher; Wanzek; Wardner; Watne

SB 2014 passed and the title was agreed to.

SECOND READING OF SENATE BILL

SB 2082: A BILL for an Act to create and enact a new subsection to section 54-52-17.4 of the North Dakota Century Code, relating to purchase of service credit under the public employees retirement system; to amend and reenact subsection 11 of section 54-52-04, subsection 4 of section 54-52-17, subsection 6 of section 54-52-17, subsection 4 of section 54-52-17.4, and sections 54-52-17.5, 54-52-17.10, 54-52-26, 54-52.2-03, and 54-52.2-04 of the North Dakota Century Code, relating to funding of administrative expenses of the deferred compensation plan, computation of benefits, determination of normal retirement date, beneficiary designations, cost of credit purchases, postretirement adjustments, prior service retiree adjustments, confidentiality of records, and deferred compensation under the public employees retirement system; to repeal section 54-52-17.9 of the North Dakota Century Code, relating to prior service retiree adjustments under the public employees retirement system; 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; Christenson; Christmann; Cook; Dever; Erbele; Espegard; Every; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kelsh; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Kroeplin; Lee; Lindaas; Lyson; Mathern, D.; Mathern, T.; Mutch; Nelson, C.; Nelson, G.; Nething; Nichols; O'Connell; Polovitz; Robinson; Schobinger; Solberg; Stenehjem; Tallackson; Thane; Tollefson; Tomac; Traynor; Trenbeath; Urlacher; Wanzek; Wardner; Watne

SB 2082 passed and the title was agreed to.

SECOND READING OF SENATE BILL

SB 2148: A BILL for an Act to amend and reenact sections 15.1-01-03, 15.1-12-05, 15.1-12-09, 15.1-12-10, and 15.1-12-27 of the North Dakota Century Code, relating to school district annexations, reorganizations, and dissolutions.

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; Christenson; Christmann; Cook; Dever; Erbele; Espegard; Every; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kelsh; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Kroeplin; Lee; Lindaas; Lyson; Mathern, D.; Mathern, T.; Mutch; Nelson, C.; Nelson, G.; Nething; Nichols; O'Connell; Polovitz; Robinson;

Schobinger; Solberg; Stenehjerm; Tallackson; Thane; Tollefson; Tomac; Traynor; Trenbeath; Urlacher; Wanzek; Wardner; Watne

SB 2148 passed and the title was agreed to.

SECOND READING OF SENATE CONCURRENT RESOLUTION

SCR 4001: A concurrent resolution directing the Legislative Council to study the property tax exemption for institutions of public charity providing a combination of health and housing services.

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

SCR 4001 was declared adopted, and the title was agreed to on a voice vote.

SECOND READING OF SENATE CONCURRENT RESOLUTION

SCR 4010: A concurrent resolution directing the Legislative Council to study the feasibility and desirability of establishing classifications for roads and unproductive land for property tax purposes.

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

SCR 4010 was declared adopted, and the title was agreed to on a voice vote.

SECOND READING OF SENATE BILL

SB 2158: A BILL for an Act to amend and reenact section 39-04-10.10 of the North Dakota Century Code, relating to interest earned from the sale of veterans' cemetery license plates.

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; Christenson; Christmann; Cook; Dever; Erbele; Espegard; Every; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kelsh; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Kroeplin; Lee; Lindaas; Lyson; Mathern, D.; Mathern, T.; Mutch; Nelson, C.; Nelson, G.; Nething; Nichols; O'Connell; Polovitz; Robinson; Schobinger; Solberg; Stenehjerm; Tallackson; Thane; Tollefson; Tomac; Traynor; Trenbeath; Urlacher; Wanzek; Wardner; Watne

SB 2158 passed and the title was agreed to.

SECOND READING OF SENATE BILL

SB 2035: A BILL for an Act to create and enact sections 12.1-20-05.1 and 12.1-20-12.2 and a new section to chapter 29-04 of the North Dakota Century Code, relating to sexual offenses, the luring of minors by computer, and a statute of limitations for gross sexual imposition; to amend and reenact subsection 4 of section 12.1-20-02, sections 12.1-20-04, 12.1-20-05, 12.1-20-12.1, subsection 1 of section 12.1-31-01, subdivision e of subsection 1 of section 12.1-32-15, and subdivision c of subsection 5 of section 15-36-15.1 of the North Dakota Century Code, relating to sexual offenses and disorderly conduct; to repeal section 12.1-22-03.1 of the North Dakota Century Code, relating to surreptitious intrusion; and to provide a penalty.

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; Christenson; Christmann; Cook; Dever; Erbele; Espegard; Every; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kelsh; Kilzer; Klein;

Krauter; Krebsbach; Kringstad; Kroepflin; Lee; Lindaas; Lyson; Mathern, D.; Mathern, T.; Mutch; Nelson, C.; Nelson, G.; Nething; Nichols; O'Connell; Polovitz; Robinson; Schobinger; Solberg; Stenehjerm; Tallackson; Thane; Tollefson; Tomac; Traynor; Trenbeath; Urlacher; Wanzek; Wardner; Watne

Engrossed SB 2035 passed and the title was agreed to.

SECOND READING OF SENATE BILL

SB 2090: A BILL for an Act to create and enact a new subsection to section 10-04-06 of the North Dakota Century Code, relating to exempt securities transactions; to amend and reenact section 10-04-04, subsections 5 and 8, paragraph 6 of subdivision b of subsection 9, and paragraph 3 of subdivision a of subsection 16 of section 10-04-06, subsection 1 of section 10-04-08.4, sections 10-04-10 and 10-04-10.1, subsection 1 of section 10-04-14, section 10-04-15, subsection 1 of section 10-04-16, and sections 10-04-16.1 and 10-04-18 of the North Dakota Century Code, relating to registration of securities, exempt transactions, federal covered securities, registration of dealers, agents, investment advisers, and investment adviser representatives, investment advisory activity, consent to service of process, fraudulent practices, the authority of the securities commissioner to conduct investigations and to issue orders, and statutes of limitation; 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 49 YEAS, 0 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

YEAS: Andrist; Bercier; Bowman; Christenson; Christmann; Cook; Dever; Erbele; Espegard; Every; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kelsh; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Kroepflin; Lee; Lindaas; Lyson; Mathern, D.; Mathern, T.; Mutch; Nelson, C.; Nelson, G.; Nething; Nichols; O'Connell; Polovitz; Robinson; Schobinger; Solberg; Stenehjerm; Tallackson; Thane; Tollefson; Tomac; Traynor; Trenbeath; Urlacher; Wanzek; Wardner; Watne

Engrossed SB 2090 passed, the title was agreed to, and the emergency clause was declared carried.

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)

MR. SPEAKER: The Senate has passed, the emergency clause carried, and your favorable consideration is requested on: SB 2154.

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)

MR. SPEAKER: The Senate has passed and your favorable consideration is requested on: SB 2061, SB 2080, SB 2083, SB 2084, SB 2110, SB 2162.

MESSAGE TO THE SENATE FROM THE HOUSE (MARK L. JOHNSON, CHIEF CLERK)

MR. PRESIDENT: The House has passed and your favorable consideration is requested on: HB 1075, HB 1186.

MESSAGE TO THE SENATE FROM THE HOUSE (MARK L. JOHNSON, CHIEF CLERK)

MR. PRESIDENT: The House has passed, the emergency clause carried, unchanged: SB 2048.

MOTION

SEN. CHRISTMANN 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., Wednesday, January 24, 2001, which motion prevailed.

REPORT OF STANDING COMMITTEE

SB 2073: Transportation Committee (Sen. Stenehjerm, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2073 was placed on the Sixth order on the calendar.

"An applicant for a license or renewal of a license shall submit to the aeronautics commission an inventory of aircraft held by the applicant along with a separate demonstration flight log of time accumulated for those demonstration flights and aircraft tachometer readings for each aircraft on the date of initial application and on November thirtieth before the yearly renewal time. Information on inventory must be provided to the commission on an approved report form. If an aircraft is held in inventory for more than twelve months and is flown more than thirty-five hours of flight time in any given twelve-month period of time, the commission shall determine if the aircraft is a demonstration aircraft. When the hours flown exceed thirty-five hours in the twelve-month period, the aircraft is presumed not to be a demonstration aircraft and the aircraft excise tax must be remitted to the aeronautics commission under chapter 57-40.5 unless upon satisfactory proof the aeronautics commission determines the aircraft is used exclusively for demonstration purposes."

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2111: Agriculture Committee (Sen. Wanzek, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2111 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2119: Judiciary Committee (Sen. Traynor, Chairman) recommends **DO NOT PASS** (5 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2119 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2133: Judiciary Committee (Sen. Traynor, Chairman) recommends **DO NOT PASS** (5 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2133 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2183: Education Committee (Sen. Freborg, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2183 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2185: Finance and Taxation Committee (Sen. Urlacher, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2185 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2213: Finance and Taxation Committee (Sen. Urlacher, Chairman) recommends **DO NOT PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2213 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2226: Judiciary Committee (Sen. Traynor, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2226 was placed on the Sixth order on the calendar.

Page 3, line 3, overstrike "A job related violation of state or federal agency rules."

Page 3, line 4, overstrike "c."

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2230: Judiciary Committee (Sen. Traynor, Chairman) recommends **DO PASS** (5 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2230 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2240: Finance and Taxation Committee (Sen. Urlacher, Chairman) recommends **DO PASS** (5 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). SB 2240 was placed on the Eleventh order on the calendar.

FIRST READING OF SENATE BILL

Sens. Solberg, Erbele and Reps. Boehm, Gulleson introduced:

SB 2347: A BILL for an Act to create and enact eight new sections to chapter 36-14 of the North Dakota Century Code, relating to indemnity for diseased animals; to amend and reenact section 36-15-08.1 of the North Dakota Century Code, relating to indemnity payments for animals diagnosed with brucellosis or bovine tuberculosis; and to repeal sections 36-15-03, 36-15-04, 36-15-06, 36-15-07, 36-15-09, and 36-15-11 of the North Dakota Century Code, relating to appraisals and condemnation of animals having brucellosis or bovine tuberculosis.

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

FIRST READING OF SENATE CONCURRENT RESOLUTION

Sens. Solberg, Bercier, Klein and Reps. Boucher, Lemieux, Nelson introduced:

SCR 4013: A concurrent resolution approving the location, construction, and operation of a hydroelectric transmission facility from Rugby to the Canadian border.

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

FIRST READING OF HOUSE BILLS

HB 1075: A BILL for an Act to amend and reenact sections 20.1-11-04 and 20.1-11-05 of the North Dakota Century Code, relating to the authority of the director of the game and fish department to establish game refuges and game and fish management areas on public land.

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

HB 1186: A BILL for an Act to amend and reenact section 24-02-03.3 of the North Dakota Century Code, relating to mileage reimbursement rates for disabled state employees driving specially equipped vehicles.

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

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

WILLIAM R. HORTON, Secretary

