

## JOURNAL OF THE SENATE

## Fifty-third Legislative Assembly

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Bismarck, January 6, 1993

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

The prayer was offered by Rev. Andrea DeGroot-Nesdahl, Evangelical Lutheran Church of America, Bismarck.

The roll was called and all members were present.

A quorum was declared by the President.

## MOTION

SEN. MATHERN MOVED that SB 2060 be returned to the Senate floor from the Political Subdivisions Committee and be rereferred to the Natural Resources Committee, which motion prevailed. Pursuant to Sen. Mathern's motion, SB 2060 was rereferred.

## MOTION

SEN. MATHERN MOVED that SB 2079 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. Mathern's motion, SB 2079 was rereferred.

## MOTION

SEN. MATHERN MOVED that SB 2172 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. Mathern's motion, SB 2172 was rereferred.

## MOTION

SEN. MATHERN MOVED that SB 2116 be returned to the Senate floor from the Judiciary Committee and be rereferred to the Human Services Committee, which motion prevailed. Pursuant to Sen. Mathern's motion, SB 2116 was rereferred.

## MOTION

SEN. MATHERN MOVED that SB 2128 be returned to the Senate floor from the Transportation Committee and be rereferred to the Finance and Taxation Committee, which motion prevailed. Pursuant to Sen. Mathern's motion, SB 2128 was rereferred.

## MOTION

SEN. MATHERN MOVED that SB 2236 be returned to the Senate floor from the Transportation Committee and be rereferred to the Finance and Taxation Committee, which motion prevailed. Pursuant to Sen. Mathern's motion, SB 2236 was rereferred.

## MOTION

SEN. MATHERN MOVED that, as Wilbur D. Wilkinson, Chairman of the Three Affiliated Tribes, Ft. Berthold Reservation, along with the Oakdale Drum Group from Mandaree and the Color Guard from Myron Johnson Veteran's Post, Mandaree, and Fort Berthold Vietnam Veterans are in the Senate Chambers, a committee of two be appointed to escort Mr. Wilkinson, the Oakdale Drum Group, and the Color Guard to the rostrum to present the Tribal-State Relations statement, which motion prevailed.

THE PRESIDENT APPOINTED Sens. Jerome and Traynor. Mr. Wilkinson, the Oakdale Drum Group, and the Color Guard were escorted to the rostrum and introduced to the Assembly.

**TRIBAL-STATE RELATIONS**  
**Wilbur Dale Wilkinson, Chairman**  
**of the Mandan, Hidatsa, Arikara Nation**

Governor Schafer, Madam President, Distinguished Senators, Ladies and Gentlemen: I am Wilbur Dale Wilkinson, Tribal Chairman of the Three Affiliated Tribes; the Mandan, Hidatsa, and Arikara Nation. I want to thank Debbie Painte, the Executive Director of the North Dakota Indian Affairs Commission, Chairman Mushik and the Interim Legislative Management Committee for extending this invitation to the Indian Nations of North Dakota. I welcome this opportunity to address the North Dakota Senate on the state of affairs between the Indian Nations and the State of North Dakota.

There are many issues that exist between the sovereign Indian Nations of Fort Berthold, Standing Rock, Fort Totten, Turtle Mountain, and Sisseton and the State of North Dakota - issues that can and must be overcome if we are to progress, grow and prosper and create the opportunities our people need and deserve.

This can only happen if we work together with a common goal; recognizing and understanding what the Indian Nations and the state has to offer in building a better life, a better tomorrow for our elders, our children, and ourselves.

I was at a meeting where many problems were being discussed and I asked the question - what are we trying to do, who or what is stopping us, who is the enemy? The answers varied - some said our opponents, some said the newspapers, some said the Republicans, some said the Democrats, some said the State of North Dakota, some said the federal government. They were all wrong! The enemy we must combat is ignorance, unemployment, injustice, lack of economic growth, a depressed farm economy, and poverty.

Jurisdictional issues of cross deputization, extradition, taxation, TERO, redistricting, economic development, unemployment, housing, poverty; all are complex problems that the governments of the Indian Nations and the state must resolve. It all begins with recognizing the sovereignty of Indian Nations. The state must recognize and appreciate the contributions that Indian Nations have made to the economy of North Dakota.

- Millions of Bureau of Indian Affairs dollars
- Millions of Tribal dollars
- Millions of Department of Defense dollars
- Millions of Indian Housing Authority dollars
- Millions of Indian Health Service dollars

All spent in North Dakota stores, small businesses, and contractors; creating thousands of jobs and generating revenues in state taxes.

This money is brought into North Dakota because we are Indian Nations with treaties with the United States of America. The true beneficiaries are the non-Indian businesses of North Dakota.

The impediments to progress have been challenges to tribal sovereignty.

We have tribal laws that apply to all persons doing business on Indian reservations. The challenges made by non-Indians living amongst us on our reservations are the most controversial.

- Reservation Telephone Co-op Lawsuit - challenging the tribal possessory interest tax. Even after the tribes exempted co-ops from paying the tax, the reservation telephone co-op commenced a lawsuit against the tribes.
- Duncan Oil Lawsuit - challenging the tribes' authority to lien tax and challenging the tribes' right to tribal employment rights laws on the reservation. Non-Indian people live and do business on our reservation because they want to, therefore, they are subject to

- our tribal laws. In turn, if an Indian lives off the reservation, they are subject to the laws of North Dakota.
- Extradition - most of you may have read in the newspapers that the States Attorney of Ward County was seeking extradition of my nephew to face state felony charges. It made front page news. When my nephew waived his right to an extradition hearing and was extradited to Ward County, the States Attorney and the Judge, on the front page of the newspaper reported that they would release my nephew if I would go up and ask the Judge to release him.
  - In gaming, the tribes sought to create jobs, bring in revenues to the tribes, but first a compact had to be negotiated with the State of North Dakota. Two tribes had been waiting years for the state to negotiate and consummate a gaming compact. A lawsuit was filed to compel the state to negotiate. This action was precipitated by the state's move to bring in the United States Attorney, United States Marshal, Bureau of Indian Affairs criminal investigators to shut down tribally-operated gaming. Following the filing of the lawsuit, the gaming compacts were consummated between the tribe and state.
  - Growing North Dakota which is a bold and innovative law designed to stimulate the economy of North Dakota and North Dakota reservations, the law contained an Indian set-aside provision. The Indian leaders supported this bill, testified and lobbied for its purpose. Once enacted into law the administrative regulations and interpretation made it prohibitive for Indian tribes to truly benefit from the well-intended legislation. To be successful there must be a willingness to negotiate, to compromise, to set aside our differences and do what is just, to do what is morally right.

On Fort Berthold by working together with the people of North Dakota, the state leaders, the Rural Electric Cooperatives, Congressional leaders, we were able to accomplish what could not be done for fifty years. That was seeking financial compensation and a commitment by the Congress of the United States to replace the lost infrastructures of the tribe when the Garrison dam was built and the Garrison reservoir created. Our people lost 156,000 acres of prime bottom land for the alleged public good. By working together, by seeking justice, we were able to obtain equitable compensation. Our efforts culminated with passage of H. R. 429, now Public Law 102-575.

This Public Law establishes a \$149.2 million recovery fund for our people and returns approximately 45,000 acres of land, tribal to individual Indians and non-Indian landowners.

The State of North Dakota, as a matter of unity, recognized tribal court judgments.

The State of North Dakota recognized tribal governments' inherent authority to create business corporations and the recognition of these corporations as foreign corporations by the State of North Dakota and allowing tribally chartered corporations to obtain North Dakota contractors' licenses.

The tribal municipal, rural and industrial water projects on the reservation, bringing in millions of dollars to build the necessary infrastructures to bring quality water to our communities and homes, all contribute to the benefit of all North Dakotans.

The people of North Dakota can maintain the belief that all Indian people do not work and get a public assistance check every month and Indian people can maintain the belief that all North Dakotans are farmers that do not work and live off the United States Department of Agriculture public assistance dole by getting government deficiency payments or we can understand each other and realize that their stereotypes are not true and that we all have problems and concerns that are common to Indians and non-Indians and by recognizing this, we can work together toward finding positive solutions.

Thank you.

**MOTION**

**SEN. MATHERN MOVED** that the address of Mr. Wilkinson be printed in the Senate Journal, which motion prevailed.

**MOTION**

**SEN. MATHERN MOVED** that a committee of two be appointed to escort Mr. Wilkinson from the Senate Chamber, which motion prevailed.

**THE PRESIDENT APPOINTED** Sens. Jerome and Traynor. Mr. Wilkinson was escorted from the Senate Chamber.

**MESSAGE to the SENATE from the HOUSE (Roy Gilbreath, Chief Clerk)**

**MADAM PRESIDENT:** The House has passed and your favorable consideration is requested on HCR 3010.

**MOTION**

**SEN. MATHERN MOVED** that the Senate be on the Ninth order of business and at the conclusion of that order, the Senate stand in recess until 2:00 p.m. at which time it will meet in the House Chamber for a Joint Session, and after the Joint Session the Senate stand adjourned until 1:30 p.m., Thursday, January 7, 1993, which motion prevailed.

**FIRST READING OF SENATE BILLS**

Judiciary Committee introduced:

(At the request of the Office of Management and Budget)

**SB 2234:** A BILL for an Act to create and enact twenty-one new sections to title 12 of the North Dakota Century Code, relating to administration of the Uniform Crime Victims Reparations Act by the director of parole and probation of the department of corrections and rehabilitation; and to repeal chapter 65-13 of the North Dakota Century Code, relating to administration of the Uniform Crime Victims Reparations Act by the workers compensation bureau.

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

Sens. Heinrich, Evanson, Kelsh, O'Connell and Reps. Aarsvold, Schindler introduced:

**SB 2238:** A BILL for an Act to appropriate moneys for foundation aid per-pupil payments by the superintendent of public instruction; and to declare an emergency.

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

Sen. Nalewaja and Rep. Wald introduced:

**SB 2239:** A BILL for an Act to amend and reenact sections 44-06-01, 44-06-03, and 44-06-04 of the North Dakota Century Code, relating to notaries public; and to repeal section 44-06-03.1 of the North Dakota Century Code, relating to notices of claims against notary public bonds.

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

Sens. Solberg, O'Connell, Sand and Reps. Gorder, Poolman introduced:

**SB 2240:** A BILL for an Act to amend and reenact section 44-02-05 of the North Dakota Century Code, relating to calling of a special county election to fill a vacancy in the board of county commissioners.

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

Sens. Solberg, Krebsbach, B. Stenehjem and Reps. Bernstein, Byerly, Carlisle introduced:

**SB 2241:** A BILL for an Act to amend and reenact paragraph 2 of subdivision b of subsection 8 of section 65-01-02 and section 65-01-11 of the North Dakota Century Code, relating to injuries that are not compensable for workers' compensation purposes and testing for intoxication of an employee after a work-related injury.

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

Sens. Nalewaja, Freborg, Holmberg and Reps. Kelsch, Kretschmar, Rydell introduced:

**SB 2242:** A BILL for an Act to amend and reenact subsection 2 of section 53-06.1-01.1 of the North Dakota Century Code, relating to the qualifications of members of the gaming commission.

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

Sens. Nalewaja, DeMers, Robinson and Reps. St. Aubyn, Bernstein, Cleary introduced:

**SB 2243:** A BILL for an Act to provide for the donation of accumulated annual leave between state employees; and to declare an emergency.

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

Sens. Tallackson, Freborg and Reps. Grosz, Kilichowski introduced:

**SB 2244:** A BILL for an Act to amend and reenact section 12-44.1-06 of the North Dakota Century Code, relating to the length of time inmates may be confined in grade two jail facilities.

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

Sens. Solberg, Langley, Bowman and Reps. Bateman, Rennerfeldt, Hokana introduced:

**SB 2245:** A BILL for an Act to amend and reenact sections 36-09-01, 36-09-02, 36-09-02.1, 36-09-04, 36-09-06, 36-09-08, 36-09-10, 36-09-11, 36-09-12, 36-09-13, 36-09-14, 36-09-15, and 36-09-18 of the North Dakota Century Code, relating to livestock brands and marks; and to provide a continuing appropriation.

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

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

**CAROL SIEGERT, Secretary**