

JOURNAL OF THE SENATE

Fifty-third Legislative Assembly

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Bismarck, January 26, 1993

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

The prayer was offered by Rev. Aanen Gjovik, First Lutheran Church, Rugby.

The roll was called and all members were present.

A quorum was declared by the President.

MOTION

SEN. MATHERN MOVED that SB 2004, which is on the Sixth order, be rereferred to the Appropriations Committee, which motion prevailed. Pursuant to Sen. Mathern's motion, SB 2004 was rereferred.

MOTION

SEN. MATHERN MOVED that SB 2367 be returned to the Senate floor from the Industry, Business and Labor Committee and be rereferred to the Judiciary Committee, which motion prevailed. Pursuant to Sen. Mathern's motion, SB 2367 was rereferred.

CONSIDERATION OF AMENDMENTS

SB 2049: SEN. KRAUTER (Natural Resources Committee) MOVED that the amendments on SJ page 209 be adopted and then be placed on the Eleventh order with DO PASS, which motion prevailed.

CONSIDERATION OF AMENDMENTS

SB 2058: SEN. MAXSON (Judiciary Committee) MOVED that the amendments on SJ page 209 be adopted and then be placed on the Eleventh order with DO PASS, which motion prevailed.

CONSIDERATION OF AMENDMENTS

SB 2071: SEN. MUTCH (Industry, Business and Labor Committee) MOVED that the amendments on SJ pages 209-210 be adopted and then be placed on the Eleventh order with DO PASS, which motion prevailed.

MESSAGE TO THE HOUSE FROM THE SENATE (CAROL SIEGERT, SECRETARY)

MR. SPEAKER: The Senate has passed and your favorable consideration is requested on: SB 2044, SB 2048, SB 2060, SB 2105, SB 2185, SB 2189, SB 2257, SB 2258, SB 2280.

MESSAGE TO THE SENATE FROM THE HOUSE (ROY GILBREATH, CHIEF CLERK)

MADAM PRESIDENT: The House has passed and your favorable consideration is requested on: HB 1103, HB 1167, HB 1168, HB 1170, HB 1171, HB 1323.

CONSIDERATION OF AMENDMENTS

SB 2079: SEN. JEROME (Human Services Committee) MOVED that the amendments on SJ page 210 be adopted and then be placed on the Eleventh order with DO PASS, which motion prevailed.

CONSIDERATION OF AMENDMENTS

SB 2126: SEN. W. STENEHJEM (Judiciary Committee) MOVED that the amendments on SJ pages 210-211 be adopted and then be placed on the Eleventh order with DO PASS, which motion prevailed.

CONSIDERATION OF AMENDMENTS

SB 2137: SEN. STREIBEL (Transportation Committee) MOVED that the amendments on SJ page 211 be adopted and then be placed on the Eleventh order with DO PASS, which motion prevailed.

CONSIDERATION OF AMENDMENTS

SB 2151: SEN. KELLER (Natural Resources Committee) MOVED that the amendments on SJ pages 211-212 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

CONSIDERATION OF AMENDMENTS

SB 2170: SEN. KELSH (Education Committee) MOVED that the amendments on SJ page 212 be adopted and then be **REREFERRED** to the **Appropriations Committee** with **DO PASS**, which motion prevailed.

MOTION

SEN. MATHERN MOVED that SB 2170 be rereferred to the **Appropriations Committee**, which motion prevailed. Pursuant to Sen. Mathern's motion, SB 2170 was rereferred.

CONSIDERATION OF AMENDMENTS

SB 2186: SEN. SCHERBER (Education Committee) MOVED that the amendments on SJ page 212 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

CONSIDERATION OF AMENDMENTS

SB 2230: SEN. URLACHER (Natural Resources Committee) MOVED that the amendments on SJ pages 212-213 be adopted and then be placed on the Eleventh order with **DO NOT PASS**, which motion prevailed.

MOTION

SEN. MATHERN MOVED that SB 2230 be rereferred to the **Natural Resources Committee**, which motion prevailed. Pursuant to Sen. Mathern's motion, SB 2230 was rereferred.

CONSIDERATION OF AMENDMENTS

SB 2242: SEN. MAXSON (Judiciary Committee) MOVED that the amendments on SJ page 213 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

CONSIDERATION OF AMENDMENTS

SB 2247: SEN. LINDGREN (Political Subdivisions Committee) MOVED that the amendments on SJ page 213 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

MOTION

SEN. MATHERN MOVED that SB 2269, which is on the Sixth order, be rereferred to the **Agriculture Committee**, which motion prevailed. Pursuant to Sen. Mathern's motion, SB 2269 was rereferred.

CONSIDERATION OF AMENDMENTS

SB 2281: SEN. LINDGREN (Political Subdivisions Committee) MOVED that the amendments on SJ page 214 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

CONSIDERATION OF AMENDMENTS

SCR 4008: SEN. NALEWAJA (Natural Resources Committee) MOVED that the amendments on SJ page 214 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

MOTION

SEN. MATHERN MOVED that SB 2237 be placed at the top of the Eleventh order, which motion prevailed.

SECOND READING OF SENATE BILL

SB 2237: A BILL for an Act to repeal section 57-39.2-28 of the North Dakota Century Code, relating to a refund allowed residents of Canada for sales taxes paid in North Dakota.

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 14 YEAS, 35 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

YEAS: Dotzenrod; Heinrich; Jerome; Krauter; Lindaas; Mathern; Redlin; Robinson; Scherber; Schoenwald; Tallackson; Tomac; Urlacher; Wogsland

NAYS: Andrist; Bowman; DeMers; Evanson; Freborg; Goetz; Graba; Grindberg; Holmberg; Keller; Kelly; Kelsh; Kinnoin; Krebsbach; Langley; Lindgren; Lips; Marks; Maxson; Mushik; Mutch; Naaden; Nalewaja; Nelson; Nething; O'Connell; Sand; Solberg; Stenehjem, B.; Stenehjem, W.; Streibel; Tennefos; Thane; Traynor; Yockim

SB 2237 lost.

SECOND READING OF SENATE BILL

SB 2025: A BILL for an Act to provide legislative support for state employees and to provide for development of a comprehensive plan for career development of state employees and for continued recruitment, training, and retention of quality state employees; and providing an appropriation.

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

NAYS: Andrist; Bowman; DeMers; Dotzenrod; Evanson; Freborg; Goetz; Graba; Grindberg; Heinrich; Holmberg; Jerome; Keller; Kelly; Kelsh; Kinnoin; Krauter; Krebsbach; Langley; Lindaas; Lindgren; Lips; Marks; Mathern; Maxson; Mushik; Mutch; Naaden; Nalewaja; Nelson; Nething; O'Connell; Redlin; Robinson; Sand; Scherber; Schoenwald; Solberg; Stenehjem, B.; Stenehjem, W.; Streibel; Tallackson; Tennefos; Thane; Tomac; Traynor; Urlacher; Wogsland; Yockim

SB 2025 lost.

SECOND READING OF SENATE BILL

SB 2067: A BILL for an Act to amend and reenact section 54-52-06.2 and subsection 4 of section 54-52-17 of the North Dakota Century Code, relating to the employer contribution and retirement benefits for national guard security officers and firefighters under the public employees retirement system; and to provide for application of this Act.

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; Bowman; DeMers; Dotzenrod; Evanson; Freborg; Goetz; Graba; Grindberg; Heinrich; Holmberg; Jerome; Keller; Kelly; Kelsh; Kinnoin; Krauter; Krebsbach; Langley; Lindaas; Lindgren; Lips; Marks; Mathern; Maxson; Mushik; Mutch; Naaden; Nalewaja; Nelson; Nething; O'Connell; Redlin; Robinson; Sand; Scherber; Schoenwald; Solberg; Stenehjem, B.; Stenehjem, W.; Streibel; Tallackson; Tennefos; Thane; Tomac; Traynor; Urlacher; Wogsland; Yockim

SB 2067 passed and the title was agreed to.

MESSAGE TO THE SENATE FROM THE HOUSE (ROY GILBREATH, CHIEF CLERK)

MADAM PRESIDENT: The House has amended and subsequently passed: SCR 4019.

HOUSE AMENDMENTS TO SENATE CONCURRENT RESOLUTION NO. 4019

Page 5, after line 29, insert:

"Irma Holstrom, Telephone Attendant \$58.00"

Page 6, after line 14, insert:

"BE IT FURTHER RESOLVED, that each employee of the Fifty-third Legislative Assembly is entitled to an additional one dollar per day for each previous regular session of the Legislative Assembly during which that employee was paid for at least forty-five days, as either an employee of the Senate or House, and to receive this additional compensation, which may not exceed five dollars per day, that employee must certify to the Legislative Council the year of each regular session during which that employee was employed as required by this resolution; and"

Renumber accordingly

SECOND READING OF SENATE BILL

SB 2174: A BILL for an Act to create and enact nine new sections to chapter 39-06.2, and a new subdivision to subsection 1 of section 39-06.2-10 of the North Dakota Century Code, relating to alcohol-related offenses in a commercial motor vehicle, implied consent requirements, hearings, sanctions, judicial appeals, temporary driver permits, out-of-service orders, and operating a commercial motor vehicle while having an alcohol concentration of four one-hundredths of one percent by weight or greater; and to amend and reenact subsections 4 and 7 of section 39-06-32, subsection 2 of section 39-06.2-04, section 39-06.2-11, and subsection 1 of section 39-20-07 of the North Dakota Century Code, relating to sanctions for violating the implied consent laws of another state stemming from the operation of a commercial motor vehicle in another state, employer's notification of certain traffic offenses, providing a class D driver's license when a commercial driver's license is suspended, revoked, or disqualified, and alcohol concentration and its application to commercial drivers' licensing.

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

YEAS: Andrist; Bowman; DeMers; Dotzenrod; Evanson; Freborg; Goetz; Graba; Grindberg; Heinrich; Holmberg; Jerome; Keller; Kelly; Kelsh; Kinnoin; Krauter; Krebsbach; Langley; Lindaas; Lindgren; Lips; Marks; Mathern; Maxson; Mushik; Naaden; Nalewaja; Nelson; Nething; O'Connell; Redlin; Robinson; Sand; Scherber; Schoenwald; Solberg; Stenehjem, B.; Stenehjem, W.; Tallackson; Tennefos; Thane; Tomac; Traynor; Urlacher; Wogsland; Yockim

NAYS: Mutch; Streibel

SB 2174 passed and the title was agreed to.

MOTION

SEN. KELLER MOVED that SB 2310 be returned to the Senate floor from the Natural Resources Committee for the purpose of withdrawal, which motion prevailed.

REQUEST

SEN. KELLER REQUESTED the unanimous consent of the Senate to withdraw SB 2310. There being no objection, it was so ordered by the President.

MOTION

SEN. MATHERN MOVED that SB 2488 be returned to the Senate floor from the Human Services Committee and be rereferred to the Judiciary Committee, which motion prevailed. Pursuant to Sen. Mathern's motion, SB 2488 was rereferred.

SECOND READING OF SENATE BILL

SB 2187: A BILL for an Act to amend and reenact sections 15-40.2-01, 15-40.2-02, and 15-40.2-04 of the North Dakota Century Code, relating to when school districts may admit nonresident students without the payment of tuition from the district of residence.

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 25 YEAS, 24 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

YEAS: Andrist; DeMers; Evanson; Graba; Heinrich; Holmberg; Kelly; Krebsbach; Langley; Lindaas; Lindgren; Lips; Mathern; Maxson; Mushik; Nalewaja; O'Connell; Redlin; Scherber; Schoenwald; Stenehjem, B.; Stenehjem, W.; Tallackson; Traynor; Yockim

NAYS: Bowman; Dotzenrod; Freborg; Goetz; Grindberg; Jerome; Keller; Kelsh; Kinnoin; Krauter; Marks; Mutch; Naaden; Nelson; Nething; Robinson; Sand; Solberg; Streibel; Tennefos; Thane; Tomac; Urlacher; Wogsland

SB 2187 passed and the title was agreed to.

REPORT OF PROCEDURAL COMMITTEE

MADAM PRESIDENT: Your procedural Committee on Committees (Sen. Wogsland, Chairman) respectfully submit the following names for your Select Committee to consider for the Governor's nominee to the Board of Higher Education:

Senator DeMers, Chairperson; Senators Kinnoin, Krauter, Jerome, W. Stenehjem, Freborg, and Nething.

MOTION

SEN. W. STENEHJEM MOVED that Senate Rule 701 be suspended, which motion prevailed.

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

APPOINTMENT REFERRAL

THE PRESIDENT REFERRED the appointment of Paul Ebeltoft to the Select Committee for the office of Higher Education.

MOTION

SEN. MATHERN MOVED that the Senate be on the Fifth, Ninth, Thirteenth, and Sixteenth orders of business and at the conclusion of those orders, the Senate stand adjourned until 1:00 p.m., Wednesday, January 27, 1993, which motion prevailed.

REPORT OF STANDING COMMITTEE

SB 2012: Appropriations Committee (Sen. Tallackson, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (8 YEAS, 4 NAYS, 2 ABSENT AND NOT VOTING). SB 2012, as amended, was placed on the Sixth order on the calendar.

Page 1, line 16, replace "\$2,120,456" with "\$2,207,991"

Page 1, line 17, replace "1,546,107" with "1,571,107"

Page 1, line 18, replace "\$574,349" with "\$636,884"

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

DEPARTMENT 709 - COUNCIL ON THE ARTS

SENATE - This amendment increases funding provided in the executive budget for grant programs as follows:

	GENERAL FUND	FEDERAL FUNDS	TOTAL
Folk Arts grants		\$25,000	\$25,000
ACCESS grants	\$19,535		19,535
Arts in Education grants	<u>43,000</u>		<u>43,000</u>
Total	\$62,535	\$25,000	\$87,535

REPORT OF STANDING COMMITTEE

SB 2072: Education Committee (Sen. Heinrich, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2072, as amended, was placed on the Sixth order on the calendar.

Page 1, line 1, replace "section" with "sections" and after "15-20.4-02" insert "and 15-20.4-04"

Page 2, after line 14, insert:

"SECTION 2. AMENDMENT. Section 15-20.4-04 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

15-20.4-04. Minimum standards. All postsecondary educational institutions ~~shall~~ must be accredited by national or regional accrediting agencies recognized by the United States department of education. The board may additionally require such further evidence and make such further investigation as in its judgment may be necessary. Any postsecondary educational institution domiciled in this state seeking its first authorization to operate may be issued a provisional authorization to operate on an annual basis until the institution becomes eligible for accreditation by a recognized accrediting agency. Upon completion of the accreditation process, the institution shall submit evidence of accreditation, or a substantial good faith showing of progress toward such status. Only upon accreditation shall an institution become eligible for a regular authorization to operate. This section does not apply to institutions other than academic or professional postsecondary institutions that are domiciled in this state, and which enroll a limited number of students as determined by the board."

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2095: Industry, Business and Labor Committee (Sen. Langley, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (4 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). SB 2095, as amended, was placed on the Sixth order on the calendar.

Page 1, line 10, remove the overstrike over "~~twenty-four hours of the time of separation at the~~"

Page 1, line 11, remove the overstrike over "~~employer's place of business~~", after "~~shall~~" insert: "However, upon agreement by the employee and employer, the employer may", and remove the overstrike over "~~pay these wages within~~"

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2207: Industry, Business and Labor Committee (Sen. Langley, Chairman) recommends DO PASS (4 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). SB 2207 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2226: Industry, Business and Labor Committee (Sen. Langley, Chairman) recommends DO PASS (5 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2226 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2266: Human Services Committee (Sen. Mathern, Chairman) recommends DO PASS (5 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2266 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2286: Human Services Committee (Sen. Mathern, Chairman) recommends DO PASS (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2286 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2314: Human Services Committee (Sen. Mathern, Chairman) recommends DO PASS (4 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). SB 2314 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SCR 4012: Education Committee (Sen. Heinrich, Chairman) recommends DO PASS and BE PLACED ON THE CONSENT CALENDAR (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SCR 4012 was placed on the Tenth order on the calendar.

REPORT OF STANDING COMMITTEE

SCR 4013: Human Services Committee (Sen. Mathern, Chairman) recommends DO PASS and BE PLACED ON THE CONSENT CALENDAR (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SCR 4013 was placed on the Tenth order on the calendar.

FIRST READING OF SENATE CONCURRENT RESOLUTIONS

Sen. Grindberg and Reps. Allmaras, Poolman introduced:

SCR 4026: A concurrent resolution declaring Friday, February 26, 1993, as Higher Education Day.

Was read the first time and referred to the Education Committee.

Sens. Nelson, Goetz introduced:

SCR 4027: A concurrent resolution directing the Legislative Council to study methods to improve the development of biennial revenue estimates.

Was read the first time and referred to the Finance and Taxation Committee.

Sens. Nelson, Wogsland introduced:

SCR 4028: A concurrent resolution urging Congress to either refrain from imposing on states and local governments the costs of programs mandated by federal law or fully fund those programs.

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

FIRST READING OF HOUSE BILLS

HB 1103: A BILL for an Act to create and enact a new subsection to section 57-02-08 of the North Dakota Century Code, relating to a property tax exemption for property leased for agricultural purposes from a governmental entity; to amend and reenact subsection 1 of section 57-02-26 of the North Dakota Century Code, relating to the taxable status of property leased for agricultural purposes from a governmental entity; and to provide an effective date.

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

HB 1167: A BILL for an Act to create and enact section 26.1-26-42.1 of the North Dakota Century Code, relating to revocation of nonresident license; and to amend and reenact sections 26.1-01-03.1 and 26.1-26-08 of the North Dakota Century Code, relating to cease and desist authority of the commissioner of insurance and licensing of partnerships or corporations.

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

HB 1168: A BILL for an Act to amend and reenact section 26.1-02-02 and subsection 5 of section 26.1-03-17 of the North Dakota Century Code, relating to the penalty for failure of an insurance company to pay the renewal fee for a certificate of authority and to insurance premium tax credits, penalties, and refunds; and to provide a penalty.

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

HB 1170: A BILL for an Act to amend and reenact section 26.1-17-04 of the North Dakota Century Code, relating to the powers and election of the board of directors for nonprofit health service corporations.

Was read the first time and referred to the **Human Services Committee.**

HB 1171: A BILL for an Act to amend and reenact section 6-01-08 of the North Dakota Century Code, relating to senate confirmation for the commissioner of the department of banking and financial institutions for an appointment made when the senate is not in session.

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

HB 1323: A BILL for an Act to create and enact section 54-27-19.2 of the North Dakota Century Code, relating to the reporting of the number of motor vehicles registered under tribal authority on an Indian reservation for the purpose of calculating each county's share of highway tax distribution fund.

Was read the first time and referred to the **Finance and Taxation Committee.**

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

CAROL SIEGERT, Secretary