

JOURNAL OF THE SENATE

Fifty-third Legislative Assembly

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Bismarck, April 13, 1993

The Senate convened at 8:00 a.m., with President Myrdal presiding.

The prayer was offered by Senator Marks.

The roll was called and all members were present except Senator Mutch.

A quorum was declared by the President.

MOTION

SEN. MATHERN MOVED that SB 2003 be reconsidered pursuant to Article V, Section 9, of the Constitution of the State of North Dakota for the purpose of overriding the Governor's veto, which motion prevailed.

COMMUNICATION FROM GOVERNOR EDWARD T. SCHAFER

April 8, 1993

I am returning Senate Bill 2003, and hereby veto the same pursuant to Article V, Section 9 of the North Dakota Constitution.

The legislation establishes an appropriation for defraying the expenses of the North Dakota university system and the institutions of higher learning under the supervision of the state Board of Higher Education. The total funds appropriated is \$464,008,349, including \$255,212,947 from the general fund.

I have two major objections (and several concerns) to the bill, which follow:

1. The general fund appropriation is \$9 million above the amount recommended in my proposed budget. This figure does not include almost \$1 million in bonding authority which obligates costs in the future.
2. I do not believe additional funding will achieve the intended result of the university system's own Seven Year plan, which advocates management of change without growth.

I am committed to a university system that offers students the highest quality, is cost-effective, and is relevant to the needs of every North Dakotan. My proposed budget sufficiently addresses all three of these goals, and includes \$6.5 million more than the current biennium.

In January, while constructing our budget, Chancellor Treadway concurred with our 1993-95 recommendation for higher education.

I share with Dr. Treadway the belief that the university system must change and reallocate, and this goal must be accomplished within the parameters of what the state can afford at a time of diminished resources. The challenge is to improve quality and service with the realization that higher education cannot expect increased appropriations from the state.

The Seven Year plan clearly states that future improvements in quality and the pursuit of new initiatives should be attained through reallocation of existing resources.

A primary area for reallocation is administrative costs, including executive management, support services, and other non-academic activities to improve funding for academics.

The university system must be lean and innovative; it must be flexible, adaptable, and quick to learn new ways when conditions change. In a nutshell, the university system must begin squeezing more bang out of every buck.

Corporate America has spent the last decade making revolutionary changes by decentralizing authority, focusing on quality, and basically bringing their products closer to the customers. The university system must follow suit.

In the face of the financial crisis in North Dakota, it is disappointing to see increased spending. In some circles, the belief is that the only way out of a public crisis is to tax and spend. But forcing North Dakotans to dig into their pockets to pay more taxes will break family budgets across the state.

We must recognize that the ability to pay higher taxes has all but evaporated in North Dakota.

For these reasons, I veto Senate Bill 2003, and respectfully return it to the Senate.

RECONSIDERATION OF VETOED MEASURE

SB 2003: A BILL for an Act to provide an appropriation for defraying the expenses of the North Dakota university system and the various institutions of higher learning under the supervision of the state board of higher education and to provide an exemption to the provisions of section 54-44.1-11.

ROLL CALL

The question being on the final passage of the bill, as enrolled over the Governor's veto, which has been read, the roll was called and there were 34 YEAS, 14 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: DeMers; Dotzenrod; Evanson; Goetz; Graba; Heinrich; Holmberg; Jerome; Keller; Kelly; Kelsh; Kinnoin; Krauter; Krebsbach; Langley; Lindaas; Lips; Marks; Mathern; Maxson; Mushik; Nalewaja; O'Connell; Redlin; Robinson; Scherber; Schoenwald; Stenehjem, W.; Tallackson; Thane; Tomac; Traynor; Wogsland; Yockim

NAYS: Andrist; Bowman; Freborg; Grindberg; Lindgren; Naaden; Nelson; Nething; Sand; Solberg; Stenehjem, B.; Streibel; Tennefos; Urlacher

ABSENT AND NOT VOTING: Mutch

The Senate overrode the Governor's veto on SB 2003.

MOTION

SEN. MATHERN MOVED that the vote by which SB 2003 passed be reconsidered and the motion to reconsider be laid on the table, which motion prevailed.

MOTION

SEN. MATHERN MOVED that the rules be suspended and that SB 2003 be messaged to the House immediately, which motion prevailed.

MOTION

SEN. MATHERN MOVED that the Senate stand in recess until 1:00 p.m., which motion prevailed.

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

MESSAGE TO THE HOUSE FROM THE SENATE (CAROL SIEGERT, SECRETARY)
MR. SPEAKER: The Senate has failed to pass: HB 1512.

MESSAGE TO THE SENATE FROM THE HOUSE (ROY GILBREATH, CHIEF CLERK)
MADAM PRESIDENT: The Speaker has signed and your signature is respectfully requested on: HB 1104, HB 1120, HB 1126, HB 1178, HB 1274, HB 1383, HB 1393, HB 1463, HB 1514.

MESSAGE TO THE SENATE FROM THE HOUSE (ROY GILBREATH, CHIEF CLERK)
MADAM PRESIDENT: The Speaker has signed: SB 2042, SB 2289, SB 2320, SB 2328, SB 2362, SB 2379, SB 2523, SCR 4072.

MESSAGE TO THE SENATE FROM THE HOUSE (ROY GILBREATH, CHIEF CLERK)
MADAM PRESIDENT: The Speaker has signed: SCR 4073.

DELIVERY OF ENROLLED BILLS AND RESOLUTIONS

The following resolution was delivered to the Secretary of State for his filing at the hour of 11:57 a.m., April 13, 1993: SCR 4072.

REPORT OF CONFERENCE COMMITTEE

SEN. ROBINSON MOVED that the conference committee report on Reengrossed HB 1028 be adopted, which motion prevailed.

Reengrossed HB 1028, as amended, was placed on the Fourteenth order.

SECOND READING OF HOUSE BILL

HB 1028: A BILL for an Act to establish a program to provide specialized telecommunications services and equipment to the communications impaired; to provide for a telephone access line surcharge to fund the program; to provide an appropriation; and to declare an emergency.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 47 YEAS, 1 NAY, 0 EXCUSED, 1 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; 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

NAYS: Yockim

ABSENT AND NOT VOTING: Mushik

HB 1028 passed, the title was agreed to, and the emergency clause was declared carried.

MOTION

SEN. MATHERN MOVED that SB 2142 be reconsidered pursuant to Article V, Section 9, of the Constitution of the State of North Dakota for the purpose of overriding the Governor's veto, which motion prevailed.

COMMUNICATION FROM GOVERNOR EDWARD T. SCHAFFER

April 8, 1993

I am returning Senate Bill No. 2142 and regretfully must veto the same.

The bill increases payments to the Parole Board to the same level as members of the Legislative Council. I know full well that the members of the Parole Board work diligently and at length in their service to the people of North

Dakota, and could rightfully claim the modest compensation this bill authorizes.

The members of the Parole Board have served North Dakota exceptionally well. Nonetheless, as I have indicated in previous veto messages, I am reluctant to authorize new boards, programs, or expenditures at this time in our state's history. As deserving as the members of Parole Board may be, I cannot concur with Senate Bill 2142, and regretfully veto the same and return the bill to your chambers.

RECONSIDERATION OF A VETOED MEASURE

SB 2142: A BILL for an Act to amend and reenact section 12-59-02 of the North Dakota Century Code, relating to the compensation of parole board members.

ROLL CALL

The question being on the final passage of the bill, as enrolled over the Governor's veto, which has been read, the roll was called and there were 24 YEAS, 25 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

YEAS: DeMers; Dotzenrod; Graba; Heinrich; Jerome; Keller; Kelly; Kelsh; Krauter; Langley; Lindaas; Lips; Marks; Mathern; Maxson; Mushik; Redlin; Robinson; Scherber; Schoenwald; Tallackson; Thane; Tomac; Wogsland

NAYS: Andrist; Bowman; Evanson; Freborg; Goetz; Grindberg; Holmberg; Kinnoin; Krebsbach; Lindgren; Mutch; Naaden; Nalewaja; Nelson; Nething; O'Connell; Sand; Solberg; Stenehjem, B.; Stenehjem, W.; Streibel; Tennefos; Traynor; Urlacher; Yockim

The Senate sustained the Governor's veto on SB 2142.

MOTION

SEN. MATHERN MOVED that SB 2143 be reconsidered pursuant to Article V, Section 9, of the Constitution of the State of North Dakota for the purpose of overriding the Governor's veto, which motion prevailed.

COMMUNICATION FROM GOVERNOR EDWARD T. SCHAFER

April 8, 1993

I am returning Senate Bill No. 2143 and regretfully must veto the same.

The bill increases payments to the Board of Pardons to the same level as members of the Legislative Council. I know full well that the members of the Board work diligently and at length in their service to the people of North Dakota, and could rightfully claim the modest compensation this bill authorizes.

The members of the Board of Pardons have served North Dakota exceptionally well. Nonetheless, as I have indicated in previous veto messages, I am reluctant to authorize new boards, programs, or expenditures at this time in our state's history. As deserving as the members of the Board may be, I cannot concur with Senate Bill 2143, and regretfully veto the same and return the bill to your chambers.

RECONSIDERATION OF A VETOED MEASURE

SB 2143: A BILL for an Act to amend and reenact section 12-55-02 of the North Dakota Century Code, relating to the compensation of members of the board of pardons.

ROLL CALL

The question being on the final passage of the bill, as enrolled over the Governor's veto, which has been read, the roll was called and there were 24 YEAS, 25 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

YEAS: DeMers; Dotzenrod; Graba; Heinrich; Jerome; Keller; Kelly; Kelsh; Krauter; Langley; Lindaas; Lips; Marks; Mathern; Maxson; Mushik; Redlin; Robinson; Scherber; Schoenwald; Tallackson; Thane; Tomac; Wogsland

NAYS: Andrist; Bowman; Evanson; Freborg; Goetz; Grindberg; Holmberg; Kinnoin; Krebsbach; Lindgren; Mutch; Naaden; Nalewaja; Nelson; Nething; O'Connell; Sand; Solberg; Stenehjem, B.; Stenehjem, W.; Streibel; Tennefos; Traynor; Urlacher; Yockim

The Senate sustained the Governor's veto on SB 2143.

REPORT OF CONFERENCE COMMITTEE

SEN. HEINRICH MOVED that the conference committee report on HB 1467 be adopted, which motion prevailed.

REPORT OF CONFERENCE COMMITTEE

SEN. TOMAC MOVED that the conference committee report on HB 1256 be adopted, which motion prevailed.

HB 1256, as amended, was placed on the Fourteenth order.

SECOND READING OF HOUSE BILL

HB 1256: A BILL for an Act to amend and reenact subsection 1 of section 54-03-19.1, sections 54-03-19.2, and 54-03-20 of the North Dakota Century Code, relating to the legislative compensation commission and travel reimbursement.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, 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

HB 1256 passed and the title was agreed to.

MOTION

SEN. MATHERN MOVED that the Senate stand in recess until 5:00 p.m., which motion prevailed.

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

DELIVERY OF ENROLLED BILLS AND RESOLUTIONS

The following bills were delivered to the Governor for his approval at the hour of 1:25 p.m., April 13, 1993: SB 2042, SB 2289, SB 2320, SB 2328, SB 2362, SB 2379, SB 2523.

DELIVERY OF ENROLLED BILLS AND RESOLUTIONS

The following resolution was delivered to the Secretary of State for his filing at the hour of 1:25 p.m., April 13, 1993: SCR 4073.

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

MADAM PRESIDENT: The House does not concur in the Senate amendments to HB 1001, HB 1002, HB 1003, HB 1005, and HB 1413 and the Speaker has appointed as a conference committee to act with a like committee from the Senate on:

HB 1001: Reps. Gerntholz; Clayburgh; Kroeber
HB 1002: Reps. Payne; Byerly; Pyle
HB 1003: Reps. Kunkei; R. Berg; Kaldor
HB 1005: Reps. Gerntholz; Clayburgh; Laughlin
HB 1413: Reps. Gates; Torgerson; Aarsvold

REPORT OF DELAYED BILLS COMMITTEE

MADAM PRESIDENT: Your Delayed Bills Committee (Sen. Schoenwald, Chairman) has examined and has cast a vote of 4 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING in favor of accepting a bill for an Act to create and enact a new section to chapter 28-01 of the North Dakota Century Code, relating to limitation of actions for certain asbestos claims by public building owners; and to declare an emergency.

The bill will be SB 2542.

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

FIRST READING OF SENATE BILL

Sens. W. Stenehjem, Maxson and Reps. Dorso, Mahoney introduced:
 (Approved by the Delayed Bills Committee)

SB 2542: A BILL for an Act to create and enact a new section to chapter 28-01 of the North Dakota Century Code, relating to limitation of actions for certain asbestos claims by public building owners; and to declare an emergency.

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

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

MR. SPEAKER: The Senate has adopted the conference committee report and subsequently passed: HB 1256.

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

MR. SPEAKER: The Senate has adopted the conference committee report, subsequently passed, and the emergency clause carried: HB 1028.

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

MR. SPEAKER: The Senate has overridden the Governor's veto on SB 2003. The vote was 34 YEAS, 14 NAYS, 1 ABSENT AND NOT VOTING, and your favorable consideration is requested.

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

MR. SPEAKER: The Senate has adopted the conference committee report on HB 1467.

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

MR. SPEAKER: The Senate has concurred in the House amendments and subsequently passed: SB 2252.

MOTION

SEN. MATHERN MOVED that SB 2290 be reconsidered pursuant to Article V, Section 9, of the Constitution of the State of North Dakota for the purpose of overriding the Governor's veto, which motion prevailed.

COMMUNICATION FROM GOVERNOR EDWARD T. SCHAFER

April 8, 1993

I am returning Senate Bill No. 2290 and veto the same.

The intent of the bill is to permit the use of screening tests authorized by Chapter 39-20, as evidence that a minor has consumed alcoholic beverages. However, the bill raises some troubling questions. For example:

1. Section 1 provides that the screening test under Chapter 39-20 can be used as evidence of a minor having consumed alcoholic beverages, which is prohibited by NDCC 5-01-08. Then, does a law enforcement officer have a legal authority to insist that the minor take the screening test when the minor is a passenger in an automobile, or is not in an automobile at all (in a park, in their residence, etc.)? In other words, under what circumstances can the screening test be required? Presently, an officer may request that a driver submit to a screening test, and the test results can be used as evidence of consumption of alcohol by a minor.
2. The bill mixes Chapters 5-01 and 39-20 which gives rise to another problem. Chapter 39-20 provides that a person must submit to a screening test and if the test is refused, then that person's driver's license shall be revoked as provided in Section 39-20-04. However, if the minor who is a passenger in an automobile refuses to submit to the test, can the driver's license then be revoked? Or, in a different case, does the minor who refuses the screening test in the community park risk his driver's license by refusing to submit to such a request?

For these reasons, I veto and return Senate Bill 2290 to your chambers.

RECONSIDERATION OF A VETOED MEASURE

SB 2290: A BILL for an Act to amend and reenact sections 5-01-08 and 39-20-14 of the North Dakota Century Code, relating to the use of screening tests as evidence of the consumption of alcoholic beverages by a person under twenty-one years of age.

ROLL CALL

The question being on the final passage of the bill, as enrolled over the Governor's veto, which has been read, the roll was called and there were 4 YEAS, 42 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

YEAS: Heinrich; Mathern; Thane; Yockim

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

ABSENT AND NOT VOTING: Bowman; Naaden; Solberg

The Senate sustained the Governor's veto on SB 2290.

MOTION

SEN. MATHERN MOVED that the absent member be excused, which motion prevailed.

MOTION

SEN. MATHERN MOVED that the Senate be on the Fourth, Fifth, Seventh, Twelfth, and Sixteenth orders of business and at the conclusion of those orders, the Senate stand adjourned until 8:00 a.m., Wednesday, April 14, 1993, which motion prevailed.

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

MADAM PRESIDENT: The Speaker has appointed Rep. Bateman to replace Rep. Hausauer on the conference committee on: SB 2022.

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

CAROL SIEGERT, Secretary