

Third Day of
Legislative Organizational Session

JOURNAL OF THE SENATE

Fifty-fourth Legislative Assembly

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Bismarck, December 8, 1994

The Senate convened at 9:00 a.m., with President Myrdal presiding.

The prayer was offered by Pastor Dave Biddle, Bismarck Alliance Church, Bismarck.

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

A quorum was declared by the President.

REPORT OF PROCEDURAL COMMITTEE

MADAM PRESIDENT: Your procedural Committee on Committee Arrangements for Senate Committee Rooms (Sen. Tennefos, Chairman) recommends that the Senate use the following committee rooms during the Fifty-fourth Legislative Assembly:

COMMITTEE	MEETING DAYS	ROOM
Appropriations	MTWThF	Harvest
Education	MTW	Missouri River
Government and Veterans Affairs	ThF	Missouri River
Finance and Taxation	MTW	Lewis and Clark
Transportation	ThF	Lewis and Clark
Human Services	MTW	Red River
Political Subdivisions	ThF	Red River
Industry, Business and Labor	MTW	Roosevelt
Agriculture	ThF	Roosevelt
Judiciary	MTW	Fort Lincoln
Natural Resources	ThF	Fort Lincoln
Joint Constitutional Revision	TBA	Prairie

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

REPORT OF PROCEDURAL COMMITTEE

MADAM PRESIDENT: Your procedural Rules Committee (Sen. Holmberg, Chairman) recommends that the Senate and Joint Rules of the Fifty-third Legislative Assembly, as adopted on Thursday, December 10, 1992, and published in the 1993 Senate and House Rules and Committees book, with the following new rules and amendments, be adopted as the permanent rules of the Senate for the Fifty-fourth Legislative Assembly, and that the reading of this report be dispensed with:

SECTION 1. AMENDMENT. Senate Rule 102 is amended as follows:

102. ABSENTEES ABSENCE AND PRESENCE. As used in these rules, "absent" means not present and "present" means physically in the chamber or room where the session or meeting is being held, and for purposes of a committee meeting, includes participation by means of interactive video or teleconference call. No member or officer of the Senate, unless unable to attend due to illness or other cause, may be absent from a session of the Senate, during an entire day, without first having obtained leave from the Senate, and no one is entitled to draw pay while absent more than one day without leave.

SECTION 2. AMENDMENT. Subsection 2 of Senate Rule 201 is amended as follows:

- 2. Preserve order and decorum. In case of disorderly conduct or disturbance in the galleries or the corridors, the President or the chairman of the Committee of the Whole may order the galleries or corridors to be cleared.

SECTION 3. AMENDMENT. Subsection 6 of Senate Rule 203 is amended as follows:

- 6. Exercise general supervision over all Senate employees and of all clerical duties appertaining to the business of the Senate.

SECTION 4. AMENDMENT. Senate Rule 206 is amended as follows:

206. OFFICERS AND EMPLOYEE POSITIONS OF THE SENATE. The following ~~offices~~ officers and employee positions are established, with the number, title, and manner of selection for each position as stated:

Title of Position	Number of Positions
Group A	
Secretary of the Senate	1
Desk Reporter	1
Sergeant-at-Arms	1

Persons holding Group A positions must be elected by a majority of the members-elect and the vote must be recorded in the journal.

Group B

Assistant Secretary of the Senate	1
Bill Clerk	1
Chief Stenographer and Payroll Clerk	1
Chief Committee Clerk	1
Appropriations Committee Clerk	1
Assistant Appropriations Committee Clerk	1
Committee Clerks	10 9
Assistant Committee Clerk Clerks	1 2
Chief Page and Bill Book Clerk	1
Desk Page	1
<u>Calendar Clerk</u>	<u>1</u>

Persons holding Group B positions must be appointed by the party having a majority of the members-elect, acting by and through the Employment Committee.

Group C

Secretary to the President	1
Secretary to Majority Leader	1
Staff Assistant <u>Assistants</u> to Majority Leader	1 2
Secretary to Minority Leader	1
Staff Assistant <u>Assistants</u> to Minority Leader	1 2

The President and the Majority and Minority Leaders shall appoint their respective secretaries and staff assistants, acting by and through the Employment Committee.

Other employees must be appointed as determined necessary by the Employment Committee and must be allocated to the majority and minority parties in proportion to each party's percentage of the total number of the members-elect and each party shall appoint the persons to the positions

allocated to them, acting by and through the Employment Committee except, however, that in allocating the positions of stenographers and typists the minority party must be allocated not less than one each of these positions. The majority party has the first right to select those positions of this a group until ~~their~~ its allocation is filled.

The powers, duties, and qualifications for each officer or employee are as provided by law, these rules, and the Legislative Handbook for North Dakota Legislators and Employees.

SECTION 5. A new subdivision to subsection 4 of Senate Rule 318 is created as follows:

Amendment, reconsideration, or suspension of a joint rule, as provided in Joint Rule 105.

SECTION 6. AMENDMENT. Subsection 1 of Senate Rule 319 is amended as follows:

1. If a question before the Senate contains more than one proposal, any member ~~if supported by five other members~~ may have the question divided, except a question on the adoption of a conference committee report or on the second reading and final passage of a measure resulting from the adoption of a conference committee report may not be divided.

SECTION 7. Subsection 6 of Senate Rule 346 is created as follows:

6. Determination of any vote required under this rule must be by a verification vote.

SECTION 8. AMENDMENT. Senate Rule 402 is amended as follows:

402. WHEN INTRODUCED.

1. No bill may be introduced after the fifteenth legislative day and no member other than the Majority and Minority Leaders may introduce more than three bills as prime sponsor after the tenth legislative day, nor may any resolution, except those resolutions ~~hereinafter provided for~~ described in subsection 3, be introduced after the eighteenth legislative day, except upon approval of a majority of the Delayed Bills Committee or upon two-thirds vote of the Senate.
2. No bill introduced at the request of an executive agency or the Supreme Court may be introduced after December tenth before the ensuing regular session, except upon approval of a majority of the Delayed Bills Committee.
3. Resolutions that propose amendments to the Constitution of the United States and resolutions directing the Legislative Council to carry out a study, may not be introduced after the thirty-fourth legislative day, ~~and must be reported back from the standing committee, if referred, no later than the forty-fourth legislative day in the case of resolutions proposing constitutional amendments, and no later than the thirty-seventh legislative day in the case of resolutions directing a Legislative Council study.~~
4. ~~Resolutions that propose amendments to the Constitution of North Dakota may not be introduced after the eighteenth legislative day, and must be reported back from the Joint Constitutional Revision Committee no later than the forty-fourth legislative day.~~
5. ~~A resolution proposing a constitutional amendment or directing a Legislative Council study which is not reported back as provided in~~

~~this rule must automatically be placed on the calendar without recommendation.~~

SECTION 9. AMENDMENT. Senate Rule 403 is amended as follows:

403. DELAYED BILLS AND RESOLUTIONS. The Delayed Bills Committee shall receive from the Secretary ~~all bills every bill~~ and ~~resolutions resolution~~ offered for introduction after the time for introduction as limited by Senate Rule 402, and, on the same or the next legislative day after receiving ~~such~~ the bill or resolution, shall ~~report to inform~~ the Senate ~~its conclusion~~ whether the introduction of the bill or resolution ~~should be allowed~~ has been approved. If a majority of the committee favors introduction, the sponsor may introduce the bill or resolution may be introduced. ~~All such bills and resolutions~~ Each bill or resolution approved for introduction must bear the name or names of the original sponsor or sponsors and must note the approval of the Delayed Bills Committee.

SECTION 10. AMENDMENT. Subsections 2 and 3 of Senate Rule 506 are amended as follows:

2. The committee chairman or the member who is duly appointed to act as chairman shall ensure that minutes of each committee meeting hearings and deliberations are kept. The minutes ~~must include the names of all committee members present and absent; the time of commencement and adjournment of each meeting;~~ be arranged by the bills or resolutions discussed, designated by number, and. The minutes must contain a short phrase explaining what the bill or resolution relates to; and the names and addresses of all persons who appear in relation to ~~any certain~~ the bill or resolution and a brief summary of their remarks. The minutes also must include a record of recommended amendments to ~~bills and resolutions~~ the bill or resolution, and a recorded roll call vote of the committee ~~members on all bills and resolutions~~ each bill or resolution that is referred out of the committee.
3. Upon adjournment of the legislative session, the minutes ~~of all committee meetings~~ must be delivered to the Legislative Council and must be retained by the Council for a period of not less than one year.

SECTION 11. AMENDMENT. Senate Rule 507 is amended as follows:

507. DISPOSITION REPORTING OF MEASURES. ~~No~~ Except for an appropriations bill, a resolution proposing an amendment to the Constitution of the United States or the Constitution of North Dakota, or a resolution directing an interim study by the Legislative Council, no Senate bill or resolution, except an appropriations measure, may be held in a committee for more than ~~twenty-one~~ thirty legislative days after it is referred to the committee, unless an extension of time is granted by the Senate. ~~All~~ Except for a resolution directing an interim study by the Legislative Council or a resolution proposing an amendment to the Constitution of the United States or the Constitution of North Dakota, all Senate bills and resolutions, except resolutions proposing amendments to the Constitution of the United States or the Constitution of North Dakota, or resolutions directing an interim study by the Legislative Council, must be reported back to the Senate no later than the thirty-first legislative day, ~~and if not so reported back,~~ A resolution directing an interim study by the Legislative Council must be reported back to the Senate no later than the thirty-seventh legislative day. A resolution proposing an amendment to the Constitution of the United States or the Constitution of North Dakota must be reported back to the Senate no later than the forty-fourth legislative day. A bill or resolution not reported back as required by this rule must automatically be placed on the calendar without recommendation. The same rule applies to House bills and resolutions ~~not~~ must be reported back to the Senate by the forty-eighth fifty-fifth legislative day.

SECTION 12. Senate Rule 510 is created as follows:

510. COMMITTEE OF THE WHOLE. When the Senate resolves itself into the Committee of the Whole, the President shall appoint the President Pro Tempore to preside. The rules of the Senate must be observed in the Committee of the Whole insofar as they may be applicable to committees. The minutes must be kept by a committee clerk as provided by Senate Rule 506 and the time of speaking may be limited only by motion. Upon adoption of a motion to rise, the report of the Committee of the Whole must be presented to the Senate as are other committee reports.

SECTION 13. AMENDMENT. Senate Rule 601 is amended as follows:**601. REPORT OF COMMITTEES.**

1. The report of a committee must provide for one or more of the following recommendations with respect to the bill or resolution: do pass, do not pass, be amended, be rereferred to another committee, or be placed on the calendar without recommendation.
2. During the fifth order of business, the Secretary shall announce that committee reports have been received, if such is the case, and shall list the bill or resolution number, or other identifier, and state the accompanying committee recommendation. If the committee report is divided pursuant to Senate Rule 602, the Secretary shall announce the majority and minority report, or reports, as well.
3.
 - a. If the committee report is for amendment, the proposed amendment must be placed on the calendar for the next legislative day on the sixth order of business.
 - b. No action may be taken on an amendment until a verbatim copy of the amendment has been distributed to each member; provided, that on a two-thirds vote of the members-elect, this may be suspended, and the amendment acted on immediately after the report of the committee.
 - c. If the amendment is adopted by a majority vote of the members present, the amended measure must then be placed on the calendar for the next legislative day under the applicable order of business for second reading and final passage except as provided in subdivision e or g.
 - d. If the amendment is rejected, the measure without amendment must be placed on the calendar for the next legislative day under the applicable order of business for second reading and final passage except as provided in subdivision e or g.
 - e. If the committee report is for amendment and then rereferral to another committee, the measure must be rereferred to the appropriate committee after adoption or rejection of the amendment. If, after adoption or rejection of the amendment, a measure is subject to rereferral under Senate Rule 329, the measure must be rereferred to the Appropriations Committee, regardless of whether the report provides for rereferral.
 - f. If the committee report does not recommend rereferral to another committee but recommends that the measure pass, do not pass, or makes no recommendation, the measure must be placed on the calendar for the next legislative day under the applicable order of business for second reading and final passage except as provided in subdivision g.

- g. On motion a measure must be placed on the calendar for second reading and final passage immediately after action is taken on the amendment. If the committee report recommends that the measure be placed on the calendar for second reading and final passage immediately after action is taken on the amendment, the measure must be placed on the calendar for second reading and final passage immediately after the amendment is adopted. After the thirty-second legislative day all Senate bills, and after the fifty-fifth legislative day all measures, must be placed on the calendar for second reading and final passage immediately after action is taken on the amendment. A measure placed on the calendar under this subdivision may be acted on immediately after placement on the calendar.
- h. A report for amendment must be approved as to form and style by the Legislative Council staff. When a report for amendment is received by the Secretary without a notation that the report was approved as to form and style by the Legislative Council staff, the Secretary immediately shall cause that report to be delivered to the Legislative Council office with a request that the report be examined and receive a notation approving its form and style.
- ~~3-~~ 4. If the committee report is divided as provided in Senate Rule 602, ~~and one report is for amendment with the other that the bill do not pass,~~ the reports must be placed on the calendar for the next legislative day on the seventh order of business. The President shall receive and announce a motion that the report of the minority be substituted for the majority committee report. If a "do not pass" report is adopted under this subsection, the measure must be placed on the calendar on the eleventh or fourteenth order of business.
- ~~4-~~ 4. ~~During the fifth order of business, the Secretary shall announce that committee reports have been received, if such is the case, and shall list the bill or resolution number, or other identifier, and state the accompanying committee recommendation. If no report is adopted under this subsection, the measure must be placed on the calendar on the eleventh or fourteenth order of business unless the measure is subject to rereferral under Senate Rule 329.~~
5. ~~If the committee report is divided pursuant to Senate Rule 602, the Secretary shall announce the majority report and the minority report, or reports, as well.~~
- ~~6-~~ The Secretary shall ensure that the daily calendar contains appropriate notation of committee reports.

SECTION 14. AMENDMENT. Senate Rule 602 is amended as follows:

602. DIVIDED COMMITTEE REPORT.

1. In case all the members of any committee required or entitled to report on any subject referred to them, cannot agree upon any report, the majority and minority may each make a special report, and any member or members dissenting in whole or in part, from the reasoning and conclusions of both the majority and minority may also present to the Senate a statement of reasonings and conclusions; and all reports, if decorous in language, and respectful to the Senate, must be entered at length in the journal, and must be announced by the Secretary as provided in Senate Rule 601.
2. The majority report is either the report signed by the largest number of committee members or the report signed by the committee

chairman if that report is one of two or more reports signed by the largest and an equal number of members. ~~Except as provided in Senate Rule 601, the~~ The majority report must be placed on the calendar for consideration before consideration of any minority report. Minority reports must be placed on the calendar in order in accordance with the number of committee members signing the reports, with the report signed by the largest number of members being placed on the calendar first.

3. ~~If one or more of the reports presented pursuant to this rule recommend an amendment to the legislative measure under consideration, the Secretary, during the fifth order of business, shall announce the fact that a divided committee report has been received, including a report, or reports, for amendment. The amendments, except as provided in subsection 3 of Senate Rule 601, must then go on the calendar under the sixth order of business in accordance with subsection 2 of Senate Rule 601.~~
4. ~~If more than one amendment is recommended by divided reports relating to a particular measure, the President shall direct that they be placed on the calendar in order in accordance with this rule.~~
- 5- 4. The President shall also rule as to the effect of the adoption of the first report on each subsequent report.

SECTION 15. Joint Rule 105 is created as follows:

105. AMENDMENT, RECONSIDERATION, OR SUSPENSION OF JOINT RULES. After adoption of the joint rules, no joint rule may be amended unless the rule is first reconsidered. A joint rule may not be reconsidered or suspended except by a vote of two-thirds of the members-elect of either house. The house that reconsiders or suspends a joint rule shall notify the other house with respect to that action.

SECTION 16. AMENDMENT. Subsection 2 of Joint Rule 203 is amended as follows:

2. No resolution directing the Legislative Council to carry out a study which has passed one house may be sent to the other house for concurrence after the ~~thirty-eighth~~ fortieth legislative day, except study resolutions introduced after the thirty-fourth legislative day by with the approval of the Delayed Bills Committee or introduced with the concurrence of two-thirds or more of the members of the house of introduction.

SECTION 17. AMENDMENT. Joint Rule 204 is amended as follows:

204. RETURNING OF MEASURES. Either house, upon majority vote, shall return any bill or resolution ~~called for~~ requested by ~~resolution~~ motion of the other house, if the bill or resolution is yet in possession of the house called on, and no action thereon has been had. In case action has been had, then it requires a two-thirds vote of the house asked to return a bill or resolution called for.

SECTION 18. AMENDMENT. Joint Rule 205 is amended as follows:

205. ASSISTANCE IN DRAFTING - ENROSSING AND ENROLLING OF MEASURES - CLERICAL ERRORS. The Legislative Council may provide for the members of the Legislative Assembly such legal assistance as may be necessary for the proper drafting of proposed legislation. The Legislative Council shall enross and enroll bills and resolutions as requested by each house of the Legislative Assembly. The Legislative Council shall determine the form and style of engrossed and enrolled bills and resolutions. The Legislative Council shall

correct clerical errors discovered as it engrosses and enrolls bills and resolutions.

SECTION 19. AMENDMENT. Joint Rule 208 is amended as follows:

208. INTRODUCTION OF EXECUTIVE DEPARTMENT AND SUPREME COURT BILLS.

Each executive agency and the Supreme Court shall file with the Legislative Council those bills they wish to have introduced no later than December tenth before the ensuing regular session. Each bill is deemed introduced by the standing committee of the House or Senate with general jurisdiction over the subject matter of the bill; but if the filing entity receives the approval of a legislator to sponsor the bill, that bill is to be introduced by the legislator rather than by the standing committee. A bill sponsored by a legislator may not have more sponsors than the number allowed under Senate and House Rules 401. The Legislative Council shall number and deliver those bills to the President of the Senate or the Speaker of the House for recording. Each bill introduced under this rule must be identified by noting the name of the agency or the court under the name of the sponsoring committee or legislator. The identification of a bill introduced by a standing committee may include the names of not more than five entities authorized to file bills under this rule.

SECTION 20. AMENDMENT. Subsection 2 of Joint Rule 301 is amended as follows:

2. The committees so appointed shall meet within two legislative days of appointment at the hour and place agreed on by the chairmen; ~~and the~~ A conference committee consisting of members from a three-day committee shall meet on Mondays, Wednesdays, and Fridays, and a conference committee consisting of members from a two-day committee shall meet on Tuesdays and Thursdays. The chairmen may call meetings on other days as deemed necessary. The chairmen shall have the time and place of the meeting posted prior to the meeting, or the chairmen shall announce the time and place of the meeting to their respective houses.

SECTION 21. AMENDMENT. Subsection 4 of Joint Rule 501 is amended as follows:

4. a. ~~Every~~ The agency or department preparing the fiscal note must be prepared in triplicate and must be returned shall return the fiscal note along with the number of copies requested by the Legislative Council to the Legislative Council or the committee chairman making the request, whichever the case may be, not later than five days from the date of the request.
- b. ~~One copy of the fiscal note~~ The Legislative Council shall retain three copies, shall provide one copy to the Office of Management and Budget, shall provide one copy to the Governor, and shall deliver the remaining copies to the Secretary of the Senate or the Chief Clerk of the House. Of those copies, one copy must be attached to the original bill or resolution, one copy must be filed with the Bill Clerk of the house wherein the bill or resolution originated, and one copy must be filed in the Legislative Council office provided to the President of the Senate, one copy must be provided to the Speaker of the House, and the remaining copies must be distributed as directed by the Secretary of the Senate or the Chief Clerk of the House, as appropriate.

SECTION 22. AMENDMENT. Subsection 1 of Joint Rule 603 is amended as follows:

1. ~~Eight~~ Five hundred copies of each bill, and ~~five~~ three hundred copies of each resolution, must be printed, ~~unless the house of~~

~~introduction orders a greater or lesser number.~~ After the initial order is printed, the Chief Bill and Journal Room Clerk may order additional copies to be printed to meet demand.

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

MOTION

SEN. GOETZ MOVED that the Senate stand in recess until 11:00 a.m., which motion prevailed.

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

REPORT OF PROCEDURAL COMMITTEE

MADAM PRESIDENT: Your procedural committee appointed to act as an Employment Committee (Sen. Naaden, Chairman) recommends the following as employees of the Senate during the Fifty-fourth Legislative Organizational Session.

Session Employees

Secretary of the Senate	Bill Parker
Secretary of the Senate	Carol Siegert
Assistant Secretary of the Senate	Mike Boyd
Desk Reporter	Karen Hoovestol
Desk Reporter	Sally York
Sergeant-At-Arms	Kevin Urness
Deputy Sergeant-At-Arms	Scott Wagner
Secretary to Majority Leader	Renae Doan
Secretary to Minority Leader	Sandi Kershaw

ROLL CALL

YEAS: Andrist; Bowman; Christmann; DeMers; Freborg; Goetz; Grindberg; Heinrich; Heitkamp; Kelsh; Kinnoin; Krauter; Krebsbach; Kringstad; LaFountain; Langley; Lee; Lindaas; Lips; Mathern; Mushik; Mutch; Naaden; Nalewaja; Nelson C.; Nelson G.; Nething; O'Connell; Redlin; Robinson; Sand; Scherber; Schobinger; Solberg; St. Aubyn; Stenehjem B.; Stenehjem W.; Streibel; Tennefos; Thane; Tomac; Traynor; Urlacher; Watne; Wogsland; Yockim

ABSENT AND NOT VOTING: Holmberg; Tallackson, Wanzek

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

REPORT OF PROCEDURAL COMMITTEE

MADAM PRESIDENT: Your procedural Committee on Committees (Sen. G. Nelson, Chairman) recommends the following as the proposed chairmen, vice chairmen, and members of standing committees.

APPOINTMENT OF STANDING COMMITTEES - SENATE

Appropriations Committee

Nething - Chairman	Lindaas
Naaden - Vice Chairman	Mushik
Goetz	Redlin
Holmberg	Robinson
Lips	Tallackson
Nalewaja	
Solberg	
St. Aubyn	
Streibel	

Education Committee

Freborg - Chairman	Heinrich
Grindberg - Vice Chairman	Kelsh
Schobinger	O'Connell
Wanzek	

Finance and Taxation Committee

Tennefos - Chairman	Heitkamp
Kringstad - Vice Chairman	Kinnoin
Christmann	Tomac
Urlacher	

Human Services Committee

Thane - Chairman	DeMers
Lee - Vice Chairman	Mathern
Bowman	Yockim
B. Stenehjem	

Industry, Business and Labor Committee

Mutch - Chairman	Krauter
Andrist - Vice Chairman	Langley
Krebsbach	Scherber
Sand	

Judiciary Committee

W. Stenehjem - Chairman	LaFountain
Watne - Vice Chairman	C. Nelson
Traynor	

Agriculture Committee

Bowman - Chairman	Kinnoin
Wanzek - Vice Chairman	Tomac
Andrist	

Government and Veterans Affairs Committee

Krebsbach - Chairman	Heinrich
Sand - Vice Chairman	C. Nelson
Grindberg	Scherber
W. Stenehjem	

Natural Resources Committee

Traynor - Chairman	Heitkamp
Christmann - Vice Chairman	Krauter
Freborg	Yockim
Kringstad	

Political Subdivisions Committee

Urlacher - Chairman	DeMers
Lee - Vice Chairman	LaFountain
Thane	Mathern
Watne	

Transportation Committee

B. Stenehjem - Chairman	Kelsh
Schobinger - Vice Chairman	Langley
Mutch	O'Connell
Tennefos	

Joint Constitutional Revision Committee

Andrist - Cochairman	O'Connell
W. Stenehjem	Krauter
Traynor	

MOTION

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

MOTION

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

MOTION

SEN. GOETZ MOVED that the Senate stand in recess until 1:00 p.m., at which time they reconvene for the Joint Session in the House and on completion of the Joint Session, will stand adjourned until 12:00 noon, Tuesday, January 3, 1995, which motion prevailed.

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

William C. Parker, Secretary