

JOURNAL OF THE SENATE

Fifty-fourth Legislative Assembly

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Bismarck, January 5, 1995

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

The prayer was offered by Rev. Robert Nordvall, Charity Lutheran Church, Bismarck.

The roll was called and all members were present.

A quorum was declared by the President.

MOTION

SEN. G. NELSON MOVED that SB 2047 be returned to the Senate floor from the Human Services Committee and be rereferred to the Judiciary Committee, which motion prevailed.

SECOND READING OF SENATE BILL

SB 2071: A BILL for an Act to create and enact a new section to chapter 1-02 of the North Dakota Century Code, relating to effective dates of legislation; and to declare an emergency.

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; Christmann; DeMers; Freborg; Goetz; Grindberg; Heinrich; Heitkamp; Holmberg; 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; Tallackson; Tennefos; Thane; Tomac; Traynor; Urlacher; Wanzek; Watne; Wogsland; Yockim

SB 2071 passed, the title was agreed to, and the emergency clause was declared carried.

MOTION

SEN. GOETZ MOVED that a committee of two be appointed to escort Mr. Jesse Taken Alive, Chairman of the Standing Rock Sioux Tribe, and the Common Man Singers from Standing Rock to the rostrum to present the Tribal-State Relations statement, which motion prevailed. The President appointed as such committee, Sens. Traynor and LaFountain.

Mr. Taken Alive and the Common Man Singers were escorted to the rostrum. Mr. Taken Alive introduced Earl Bullhead, Dana Yellow Fat, Courtney Yellow Fat, Ken Billingsly, Oscar Standing Crow, and Tom Bullhead, who presented the Flag Song.

TRIBAL-STATE RELATIONS

Jesse Taken Alive
Chairman, Standing Rock Sioux Tribe

Thank you very much for this honor to appear before you members of the Senate of the state of North Dakota. Before I begin my remarks and comments I would like to call upon the Common Man Singers to render an appropriate honor song

as they did on the House side where we sang our Dakota Flag song. I would like to call upon them to sing an appropriate honor song giving honor to those veterans and warriors who defended that flag in the past, who are defending it now, and who will be defending it, of course, in the future.

Thank you Common Man Singers from Standing Rock. The singing group is led by Mr. Earl Bullhead. Members are Dana Yellow Fat, Oscar Standing Crow, Thomas Bullhead, Courtney Yellow Fat, and the council representative that serves on our tribal government, Mr. Ken Billingsly. Thank you very much gentlemen.

My friends and relatives, I am very grateful to be in front of you today, the great leaders on the Senate side of this government of the state of North Dakota. I am going to be sharing with you some comments similar to what I did on the House side, sharing with you some knowledge that has been handed down to us in our generation and what we hope to hand down in a dignified manner, an honest manner, and a humble manner to our children and their children to come.

I'll begin with what has just taken place as we begin my comments - the honor and tribute that we give to the warriors, to the veterans, to the women who served underneath this great flag of ours. It is without question, I believe that the American Indian, by far, of any ethnic group has served this country willingly and defended that flag willingly. I can recall, as a child, growing up on the Standing Rock Reservation and I need to share that with you. I do reside on the South Dakota portion of our reservation but our people have asked me to represent them as its chairman of our tribal government. I hope that doesn't make anybody feel uncomfortable that I drove in from South Dakota this morning. I want to continue by saying I can remember as a child growing up on our reservation how the respect, honor, reverence, and dignity was given to the veterans and at that time as a child there were very many World War I veterans alive and those of us who are lucky had our fathers there who were either veterans of World War II or Korea and we saw some of our older relatives leave for the Vietnam War. But the point I'm making is that if we take a look at World War I and when it happened and we take a look at the American Indian Citizenship Act of 1924 what you will begin to see is the culture and history that we want to continue to protect, we want to continue to honor, and we want to continue to be grateful for. We had a lot of our grandparents serving this great country of ours during that time between 1914 and 1918, when they were yet to be citizens of the country. So we share that with you in the spirit of knowledge and of course our spirit of humility what our grandparents did for us, not only us on Standing Rock, not only us in Indian country, but throughout the United States of America. As we go through this period of what we are calling Indian self-determination, it has its beginnings for us and what we call the reservation era when we were forced onto plots of land called reservations. From the stories that are told to us by our grandparents, some of whom aren't even here anymore, there were actual fences put up around those reservations. We respect, we know, and we can feel what our Japanese American citizens went through during World War II because it happened to us during that reservation era. We go through this assimilation era, determination area, and the relocation era, and to where we're at right now, Indian self-determination. All with this knowledge of this history that we have of our people, knowing that many times, many instances things were always taken from us, continuously taken and taken and taken from us although we have treaties and our understanding of treaties is that they are agreements made between two states or two nations or two sovereigns. We look at those documents, those agreements, those treaties and view them with the thought in mind that they are sacred documents. If we put ourselves in the shoes of the individuals who negotiated and ratified those treaties, what we will find on one side of the table is a group of people who could neither read nor write nor understand this language that I am sharing with you right now, the English language. On the other side of the table we have, of course, representatives of the United States of America, the federal government. And there is that common bond, that common bond is what we are seeking. What is it our people used in the past, not being able to understand, or read or write the

language? What is it that they used? What did it implore to agree upon those documents? Those documents today cannot be unwound, cannot be taken apart by even the highest court of this land. So we view those in a most sacred manner and we continue to search for what it is our people used, that common bond with the other party that they signed with so that we can continue this relationship. Throughout history, those of you who may not be too familiar with American Indian history, what you will find is that these agreements were made in lieu of lands, billions upon billions of acres of lands in return for services. A lot of the information out in some of our areas where Indian reservations may not be are somewhat distorted, to say the least, when one says that Indian people are getting things for free. We're always facing what is being labeled right now as budget cuts, budget cuts, budget cuts. There is hardly anything left to cut when we take a look at the Indian health service. When I go back to the Standing Rock Reservation, they know that there are a few clinics in the form of buildings, but no doctors in those buildings and haven't been for so many years. So we're already facing the cuts and have been for some time. So it is important for each of us as we study history to know those things and again, yes we are frustrated. But just as our parents and grandparents, we know that if we continue to believe, that we will see. Contrary to what's always been said, seeing is believing. So we continue to believe and we are seeing the prophecies unfolding in front of us. Yes, there is a lot more work to be done, but as we begin to build upon these agreements called treaties, we begin to define what they are. Along with that comes that common bond that we want to share with everybody. That is what I am attempting to do today with you, sharing these elements in addressing you because we all live in the state of North Dakota. It is also very interesting to know that this common bond that we all seek was not afforded to us, at least not in the form of laws until August 11, 1978, when the United States government said it was okay for American Indians to form and practice their own religious ceremonies with the passage of the American Indian Freedom of Religion Act. On August 11, 1978, almost fifteen years ago, a guarantee of that right was given to every citizen of the United States of America in the first amendment to the Constitution. We realized that in 1978, that's the common bond, at least through the terms of laws, that we can look to. Also in this development that is occurring, sometimes called the renaissance, cultural renaissance is occurring throughout Indian country.

We are seeing huge developments in education. And as you begin to take a look at a lot of the propositions that will be coming before you, for example, we feel our own language should be taught, should be recognized, should be certifiable by any state measures. It is important to realize that English, at one point in time, was our foreign language. And as we are doing, as we are seeing this unveiled before us, these prophecies, we are simply saying that if you develop this understanding and believe us when we say that it is important for our children to be able to talk our language, what we are saying is that with that language we can speak with a cognitive part of our being, the intellect, as well as with our heart. That's the beauty of our language. I feel grateful to be able to speak that, yet today, 1995, knowing for a fact that at the turn of the century there were federal policies that prohibited the speaking of our native languages throughout Indian country. So, we're coming before you, lawmakers for the state of North Dakota, asking you to understand some of these items. If you deal with issues involving the American Indian colleges, the American Indian college movement, it is also important to understand that we do things our way after we've understood what is happening in America, what is happening in North Dakota as we see our people graduating with the various degrees, as we begin to redefine education in its simplest form. The simplest form of education, its definition for us, is education by example. When the American Indian college representatives come before you, listen to them and what they are saying with their heart as well as develop an understanding that they are doing many, many great things with very, very little resources. Listen to what it is that they are bringing before you. Developments in education are very encouraging for us. We understand, we know, and we appreciate what

education has done for us, what it is doing for us, and will continue to do for us.

Economically, the developments we are able to experience in Indian country - we are grateful for these opportunities. But it is very important to keep in mind that we are catching up with decades upon decades of oppression and suppression. That factor was exemplified some few short years ago when it was reported publicly that Sioux County in North Dakota was one of the ten poorest counties in the United States of America. So simply, we're just catching up. We're grateful for this opportunity to catch up. We share this development, this economic surge in the form of casinos. It's important to know we're sharing this as well with cities such as Mandan and Bismarck. When we take a look at the employment of about one hundred ninety people from this area to our economic development venture, we are willing to share this with everybody. So we take a look at economic development. It is also important to keep in mind that our economic development, what is being developed right now, what is going to be developed in the future may not be exactly what is being developed in the state of North Dakota just as these developments aren't exactly the same as they are in education. So it is always important to keep that in mind as we redefine these for our people.

Finally, there is opportunity to work with the state of North Dakota in realizing some of the benefits of the social programs and other projects that we are working with in the state of North Dakota on Standing Rock. The latest one I am going to share with you, the Children's Services Coordinating Committee, the dollars that are appropriated to help us in addressing one of the social ills. Problems, diseases, if you would like to call it that, of alcoholism. We appreciate that and I am certain you will be hearing testimony asking for continued funding, support for it, possibly more because we've got a lot of issues that we're coming upon in this era of self-determination and we are seeing great strides of success in a lot of these areas.

So we continue this work in social development knowing that social development and economic development need to go hand in hand. You can have the most beautiful buildings and structures on the reservation, but if you don't have healthy people in them, you won't be able to realize any development. On the other hand, you could have the most healthy people and with a lack of resources you may not realize the benefits of how healthy you may be.

Simply what I am sharing with you is that we as Dacotah people, would the books call us Sioux? And we come to find out that's a French word meaning enemy. We call ourselves Dacotah or Lacotah, depending on which dialect we choose to speak. It simply means friends or allies. We've always been that historically. We've always been that before there was a state. We've always been that before there was a United States of America. We are that today and we want to continue to impress upon our youth and those generations yet to come that it's good, it's okay, it's all right to be friends and to be allies because that's what Dacotah means. So I address you leaders in North Dakota and this evening I will be returning to South Dakota. I am honored, I'm grateful for this opportunity to stand before you and share some of these thoughts with you. You will be getting a chance to see these in writing, with the blue legislative books, where some of these will be outlined. But just bear in mind that as we become assertive, as we become articulate, as we become vocal, the underlying message is that we are always going to be friends or allies. And this opportunity that is being looked at, and hopefully will occur in the near future, the signing of an accord between the governor of North Dakota and my office is simply outlining a government-to-government working relationship. I know only good can come from it. I know we will continue this great work we're doing between governments. But again, the bottom line is that we are always allies, we are always friends. As I began my comments today, we pay respect to our warriors, to all the veterans for the sacrifices that they've made as they served these great flags that stand behind me. We'll always do that. We'll

always be friends and allies, but in this era of self-determination we're going to be assertive. We'll be in front of you more often, hopefully maybe there will be more of us sitting in positions such as yourselves. Not to say that our friends who are given this opportunity to sit here can't do a good job. I'm not saying that at all. But we look forward to many, many prosperous years of work with your governor and the government of the state of North Dakota and the government of the Standing Rock Sioux Tribe.

Thank you very much.

MOTION

SEN. GOETZ MOVED that the address of Mr. Jesse Taken Alive be printed in the Journal, which motion prevailed.

MOTION

SEN. GOETZ MOVED that the Senate be on the Fifth and Ninth orders of business and at the conclusion of those orders, the Senate stand adjourned until 12:30 p.m., Friday, January 6, 1995, which motion prevailed.

REPORT OF STANDING COMMITTEE

SB 2156: Government and Veterans Affairs Committee (Sen. Krebsbach, Chairman) recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2156 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SCR 4008: Government and Veterans Affairs Committee (Sen. Krebsbach, Chairman) recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SCR 4008 was placed on the Eleventh order on the calendar.

FIRST READING OF SENATE BILLS

Sen. Lips introduced:

SB 2221: A BILL for an Act providing an appropriation to the state historical society for repairs to the old governor's mansion. Was read the first time and referred to the Appropriations Committee.

Sens. Thane, Lips, Heitkamp and Rep. Hausauer introduced:

SB 2222: A BILL for an Act to amend and reenact subsection 1 of section 10-15-20 and section 10-15-21 of the North Dakota Century Code, relating to the rate of dividends upon stock issued by a cooperative association and the issuance of stock certificates by a cooperative association; and to declare an emergency. Was read the first time and referred to the Industry, Business and Labor Committee.

Sen. Mutch introduced:

SB 2223: A BILL for an Act to amend and reenact subsection 2 of section 39-21-44 of the North Dakota Century Code, relating to the transportation of hazardous materials by fertilizer or agricultural chemical retailers. Was read the first time and referred to the Transportation Committee.

Sen. Tennesfos and Rep. Gorman introduced:

SB 2224: A BILL for an Act to amend and reenact subsection 1 of section 23-12-13 of the North Dakota Century Code, relating to the order of priority of persons authorized to provide informed consent to health care for an incapacitated person. Was read the first time and referred to the Judiciary Committee.

Sens. Mutch, Solberg introduced:

SB 2225: A BILL for an Act to create and enact a new section to chapter 26.1-23.1 of the North Dakota Century Code, relating to prohibiting certain unfair insurance practices by government self-insurance pools. Was read the first time and referred to the Industry, Business and Labor Committee.

Sens. Nalewaja, Mushik, Kringstad and Rep. Rydell introduced:

SB 2226: A BILL for an Act to create and enact three new sections to chapter 43-11 of the North Dakota Century Code, relating to continuing education requirements for cosmetologists.

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

Sens. Nalewaja, DeMers, Mathern, LaFountain and Rep. Svedjan introduced:

SB 2227: A BILL for an Act to provide an appropriation for defraying the expenses of the fetal alcohol syndrome program.

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

Sens. Nalewaja, St. Aubyn, C. Nelson and Rep. Carlson introduced:

SB 2228: A BILL for an Act to amend and reenact section 54-46-08.1 of the North Dakota Century Code, relating to preservation of archival records.

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

Sens. Nalewaja, Scherber, Grindberg and Reprs. Carlson, Kelsch, Price introduced:

SB 2229: A BILL for an Act to amend and reenact subsection 2 of section 27-20-49 of the North Dakota Century Code, relating to costs and expenses of parties in juvenile court.

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

Sens. DeMers, Thane and Reprs. Christenson, Price introduced:

SB 2230: A BILL for an Act to amend and reenact section 26.1-36-07 of the North Dakota Century Code, relating to health insurance coverage for newborn and adopted children.

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

Sens. Nalewaja, Grindberg, W. Stenehjem, LaFountain and Reprs. Kelsch, Price introduced:

SB 2231: A BILL for an Act to create and enact four new sections to chapter 50-25.1 of the North Dakota Century Code, relating to the duty of the state child protection team to serve as a child fatality review panel; to amend and reenact subsection 2 of section 11-19.1-07, sections 11-19.1-11, 11-19.1-13, 23-02.1-27, 50-25.1-01, 50-25.1-03, 50-25.1-04.1, 50-25.1-05.4, 50-25.1-05.5, 50-25.1-09, 50-25.1-09.1, 50-25.1-10, and 50-25.1-13 of the North Dakota Century Code, relating to reporting the death of a child which may have resulted from child abuse or neglect; and to provide an effective date.

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

Sens. Yockim, Traynor and Reprs. Dobrinski, Torgerson introduced:

SB 2232: A BILL for an Act to repeal chapter 38-18.1 of the North Dakota Century Code, relating to termination of unused mineral interests.

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

Sens. Yockim, DeMers and Reprs. Glassheim, Gulleon introduced:

SB 2233: A BILL for an Act to create and enact two new sections to chapter 16.1-08 of the North Dakota Century Code, relating to campaign contributions; to amend and reenact sections 16.1-08-01 and 16.1-08.1-02 of the North Dakota Century Code, relating to definitions and campaign contribution statements; and to provide a penalty.

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

Sens. Krauter, Tallackson, Watne and Reprs. Berg, K. Henegar, Kerzman introduced:

SB 2234: A BILL for an Act to amend and reenact subsection 2 of section 11-13-12 of the North Dakota Century Code, relating to the county auditor's statement regarding taxes and special assessments on deeds and other instruments.

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

Sens. Wanzek, Krebsbach, Scherber and Reps. Austin, Kerzman, Wald introduced:
SB 2235: A BILL for an Act to create and enact a new section to chapter 57-38 and a new subsection to section 57-38-30.3 of the North Dakota Century Code, relating to a tuition tax credit for individuals, estates, and trusts for cost of tuition and textbooks for attendance by a dependent at an elementary or secondary school; and to provide an effective date.

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

Sens. Heinrich, Nething and Reps. Mutzenberger, Stenehjem introduced:
SB 2236: A BILL for an Act to amend and reenact section 44-08-04 of the North Dakota Century Code, relating to state officer and employee expense reimbursement.

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

Sens. Nalewaja, W. Stenehjem and Rep. Kretschmar introduced:
SB 2237: A BILL for an Act to amend and reenact subdivision c of subsection 3 of section 14-02.4-02 of the North Dakota Century Code, relating to when conduct or communication is included within the definition of discriminatory practice.

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

Sens. Lee, Watne introduced:
SB 2238: A BILL for an Act to amend and reenact section 11-18-02.2 of the North Dakota Century Code, relating to statements of full consideration for property deeds.

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

Sens. Traynor, DeMers, Krebsbach and Reps. Kunkel, Rydell introduced:
SB 2239: A BILL for an Act to amend and reenact section 43-12.1-04 of the North Dakota Century Code, relating to persons exempt from the provisions of the Nurse Practices Act.

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

Sens. Traynor, Nething, W. Stenehjem and Reps. Kretschmar, Mahoney, Nicholas introduced:

SB 2240: A BILL for an Act to create and enact a new section to chapter 30.1-30 of the North Dakota Century Code, relating to the making of gifts under a power of attorney; and to provide for retroactive application.

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

Sens. Scherber, Nalewaja, Thane and Reps. Kelsch, Mahoney, Sabby introduced:
SB 2241: A BILL for an Act to provide for a corporate guardianship program within the department of human services; and to provide an appropriation.

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

Sens. Solberg, Sand, Traynor and Reps. Bateman, Gunter, Howard introduced:
SB 2242: A BILL for an Act to amend and reenact section 39-26-04 of the North Dakota Century Code, relating to the reimbursement of towing and storage costs of abandoned motor vehicles.

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

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

William C. Parker, Secretary