

JOURNAL OF THE SENATE

Fifty-fourth Legislative Assembly

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Bismarck, January 13, 1995

The Senate convened at 12:30 p.m., with President Pro Tempore Streibel presiding.

The prayer was offered by Rev. Darrel Aleson, Chaplain, St. Alexius Medical Center, Bismarck.

The roll was called and all members were present except Senators Heitkamp, Langley, C. Nelson, and Thane.

A quorum was declared by the President.

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM C. PARKER, SECRETARY)

MR. SPEAKER: The Senate has passed and your favorable consideration is requested on: SB 2078, SB 2132, SB 2140, SB 2150, SB 2153, SB 2155, SB 2160, SB 2161, SB 2207, SB 2213.

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

MR. PRESIDENT: The House has passed and your favorable consideration is requested on: HB 1080, HB 1119, HB 1134, HB 1136.

MOTION

SEN. B. STENEHJEM MOVED that SB 2245 be returned to the Senate floor from the Industry, Business and Labor Committee for the purpose of withdrawal, which motion prevailed.

REQUEST

SEN. B. STENEHJEM REQUESTED the unanimous consent of the Senate to withdraw SB 2245. There being no objection, it was so ordered by the President.

MOTION

SEN. URLACHER MOVED that SB 2149, which is on the Eleventh order, be rereferred to the Political Subdivisions Committee, which motion prevailed. Pursuant to Sen. Urlacher's motion, SB 2149 was rereferred.

SECOND READING OF SENATE CONCURRENT RESOLUTIONS ON CONSENT CALENDAR

SCR 4015: A concurrent resolution directing the Legislative Council to study the property tax assessment system of the state, with emphasis on the potential benefits to the system from improved technology and sharing of resources.

SCR 4016: A concurrent resolution directing the Legislative Council to study tax preferences, with emphasis on property tax preferences that may be granted at the discretion of political subdivisions or that were created as economic development incentives.

The question being on the final adoption of the resolutions, which have been read.

SCR 4015 and SCR 4016 were declared adopted on a voice vote, and the titles were agreed to.

CONSIDERATION OF AMENDMENTS

SB 2116: SEN. W. STENEHJEM (Judiciary Committee) MOVED that the amendments

on SJ page 96 be adopted and then be placed on the Eleventh order with DO PASS, which motion prevailed.

SECOND READING OF SENATE BILL

SB 2048: A BILL for an Act to amend and reenact section 39-06.1-03 of the North Dakota Century Code, relating to appeals of noncriminal traffic violations.

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 45 YEAS, 0 NAYS, 0 EXCUSED, 4 ABSENT AND NOT VOTING.

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

ABSENT AND NOT VOTING: Heitkamp; Langley; Nelson, C.; Thane

SB 2048 passed and the title was agreed to.

SECOND READING OF SENATE BILL

SB 2100: A BILL for an Act to create and enact section 1-02-08.1 of the North Dakota Century Code, relating to construction in cases of conflicts between administrative rules; to amend and reenact sections 1-01-34, 1-01-49, 1-02-02, 1-02-05, 1-02-10, 1-02-15, 1-02-16, 1-02-17, 1-02-20, 1-02-39, and 1-02-40 of the North Dakota Century Code, relating to definitions, statutory and rule construction, and to incorporate the provisions of the Uniform Statute and Rule Construction Act; and to repeal sections 1-01-10, 1-01-14, 1-01-15, 1-01-16, 1-01-17, 1-01-18, 1-01-19, 1-01-20, 1-01-21, 1-01-22, 1-01-23, 1-01-24, 1-01-25, 1-01-26, 1-01-27, 1-01-28, 1-01-29, 1-01-30, 1-01-31, 1-01-32, 1-01-33, 1-01-36, 1-01-37, 1-01-38, 1-01-40, 1-01-41, 1-01-42, 1-01-44, 1-01-45, 1-01-46, 1-01-47, and 1-01-51 of the North Dakota Century Code, relating to definitions, statutory construction, and other matters under the Uniform Statute and Rule Construction Act.

ROLL CALL

The question being on the 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, 46 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

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

ABSENT AND NOT VOTING: Langley; Nelson, C.; Thane

SB 2100 lost.

SECOND READING OF SENATE BILL

SB 2115: A BILL for an Act to amend and reenact section 40-18-15.1 of the

North Dakota Century Code, relating to transfer of municipal court cases to district court when a jury trial is not waived.

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 46 YEAS, 0 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

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

ABSENT AND NOT VOTING: Langley; Nelson, C.; Thane

SB 2115 passed and the title was agreed to.

SECOND READING OF SENATE BILL

SB 2118: A BILL for an Act to amend and reenact section 27-08.1-02 of the North Dakota Century Code, relating to commencement of small claims actions.

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 46 YEAS, 0 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

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

ABSENT AND NOT VOTING: Langley; Nelson, C.; Thane

SB 2118 passed and the title was agreed to.

SECOND READING OF SENATE BILL

SB 2134: A BILL for an Act to amend and reenact section 52-06-01 of the North Dakota Century Code, relating to eligibility for unemployment compensation benefits.

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 46 YEAS, 0 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

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

ABSENT AND NOT VOTING: Langley; Nelson, C.; Thane

SB 2134 passed and the title was agreed to.

SECOND READING OF SENATE BILL

SB 2199: A BILL for an Act to amend and reenact section 54-27-15.1 of the North Dakota Century Code, relating to unpaid state treasurer's checks.

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 46 YEAS, 0 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

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

ABSENT AND NOT VOTING: Langley; Nelson, C.; Thane

SB 2199 passed and the title was agreed to.

MOTION

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

MOTION

SEN. GOETZ MOVED that the Senate be on the Fifth, Ninth, and Thirteenth orders of business and at the conclusion of those orders, the Senate stand adjourned until 1:00 p.m., Monday, January 16, 1995, which motion prevailed.

REPORT OF STANDING COMMITTEE

SB 2138: Government and Veterans Affairs Committee (Sen. Krebsbach, Chairman) recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2138 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2168: Finance and Taxation Committee (Sen. Tennefos, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2168 was placed on the Sixth order on the calendar for immediate second reading.

Page 1, line 17, replace "one" with "two"

Page 1, line 21, replace "one" with "two"

Page 2, line 6, replace "one" with "two"

Page 2, line 11, replace "one" with "two"

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2196: Agriculture Committee (Sen. Bowman, Chairman) recommends DO PASS (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2196 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2200: Political Subdivisions Committee (Sen. Urlacher, Chairman)

recommends **DO PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2200 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2214: Government and Veterans Affairs Committee (Sen. Krebsbach, Chairman) recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2214 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2217: Political Subdivisions Committee (Sen. Urlacher, Chairman) recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2217 was placed on the Eleventh order on the calendar.

FIRST READING OF SENATE BILLS

Sens. DeMers, Goetz, Yockim and Reps. Olson, Dobrinski, Hagie introduced:

SB 2299: A BILL for an Act to amend and reenact section 23-27-04.1 of the North Dakota Century Code, relating to prehospital emergency medical services.

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

Sen. Sand introduced:

SB 2300: A BILL for an Act to repeal chapter 334 of the 1993 Session Laws, relating to the provisions of the Uniform Probate Code which pertain to the elective share of a surviving spouse, a spouse and children unprovided for in a will, applicable law at the time of death, evidence of death, intestate succession, exempt property and allowances, wills, will contracts, custody and deposit of wills, rules of construction applicable to wills and donative transfers, holographic wills, and general provisions concerning probate and nonprobate transfers.

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

Sens. Nalewaja, W. Stenehjem introduced:

SB 2301: A BILL for an Act to amend and reenact section 47-18-05.1 of the North Dakota Century Code, relating to waiver of homestead exemption.

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

Sens. Nalewaja, Lee, Robinson and Reps. Delmore, Guleson, Hausauer introduced:

SB 2303: A BILL for an Act to amend and reenact subsection 2 of section 5-01-01 and subsection 3 of section 5-01-02 of the North Dakota Century Code, relating to the definition of alcoholic beverages and exceptions to alcoholic beverage regulations.

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

Sens. Yockim, Kelsh, Krauter, LaFountain, O'Connell, Tomac introduced:

SB 2304: A BILL for an Act to amend and reenact section 44-04-18.6 of the North Dakota Century Code, relating to access to legislators' telephone records.

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

Sens. Wanzek, Tomac and Reps. Johnson, Kaldor introduced:

SB 2305: A BILL for an Act to amend and reenact sections 6-09.10-02.1, 6-09.10-03, and subsection 1 of section 6-09.10-06 of the North Dakota Century Code, relating to funding of a coordinated farm management delivery system and extension of the expiration date of the agricultural mediation service; to provide a continuing appropriation; and to declare an emergency.

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

Sens. Mathern, Krebsbach, Heinrich, O'Connell and Reps. Rydell, Kelsch introduced:

SB 2307: A BILL for an Act to amend and reenact subsection 7 of section 15-40.1-08 of the North Dakota Century Code, relating to per student payments for kindergarten students; and to provide an effective date.

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

Sens. B. Stenehjem, Christmann, O'Connell and Reps. Austin, Drovdal introduced:

SB 2308: A BILL for an Act to require school principals to provide parents with access to or copies of various documents; and to provide for civil actions for violations.

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

Sens. B. Stenehjem, Lips, Thane and Reps. Maragos, Retzer, Schmidt introduced:

SB 2309: A BILL for an Act to create and enact a new section to chapter 37-19.1 of the North Dakota Century Code, relating to the eligibility period for veterans' preference; and to amend and reenact sections 37-19.1-01 and 37-19.1-02 of the North Dakota Century Code, relating to definitions and public employment preference for veterans.

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

Sen. Solberg introduced:

SB 2310: A BILL for an Act to repeal chapter 54-56 of the North Dakota Century Code, relating to the children's services coordinating committee.

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

Sen. Naaden introduced:

SB 2311: A BILL for an Act to prohibit members of the executive or judicial branch from introducing or sponsoring, or requesting procedural or standing committees to introduce, bills into the legislative assembly.

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

Sen. Mutch introduced:

SB 2312: A BILL for an Act to create and enact two new sections to chapter 6-09 of the North Dakota Century Code, relating to the transfer of functions of the department of economic development and finance to the Bank of North Dakota; to amend and reenact sections 4-14.1-03, 10-24-40, subsection 6 of section 10-30-04, sections 10-30.3-03, 10-30.3-05, 10-30.3-11, 10-30.3-12, 10-30.4-01, 10-30.4-02, 10-30.4-03, 10-30.4-05, 21-11-02, 21-11-03, 21-11-04, 21-11-05, 21-11-06, 24-02-37.1, subsection 1 of section 28-32-01, sections 40-57.1-04, 52-01-03, 54-34-06.1, 54-34-12, 54-34-15, 54-53-02, 55-06-01, 55-08-02.1, 57-38.5-01, 57-38.5-02, 57-38.5-07, and 57-38.5-08 of the North Dakota Century Code, relating to the transfer of functions of the department of economic development and finance to the Bank of North Dakota; to repeal chapter 54-34.3 of the North Dakota Century Code, relating to the department of economic development and finance; and to provide an appropriation.

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

Sens. Urlacher, Mathern and Reps. Brown, Jacobs, Kretschmar introduced:

SB 2313: A BILL for an Act to amend and reenact section 1 of chapter 411 of the 1993 Session Laws, relating to filing fees for filing documents in the Uniform Commercial Code central filing system; to repeal section 3 of chapter 411 of the 1993 Session Laws, relating to the expiration date for fees for obtaining information from the Uniform Commercial Code central filing system; and to declare an emergency.

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

Sens. Robinson, Redlin, Streibel and Reps. Nichols, Svedjan introduced:

SB 2314: A BILL for an Act to amend and reenact sections 21-04-09 and 21-06-07 of the North Dakota Century Code, relating to the pledge of securities and the investment of surplus funds by political subdivisions.

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

Sens. Robinson, Nalewaja, St. Aubyn and Reps. Stenehjem, Svedjan, Wentz introduced:

SB 2315: A BILL for an Act to provide a penalty for hazing.

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

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

SB 2316: A BILL for an Act to amend and reenact sections 14-05-23, 14-06-02, subsection 1 of section 27-10-01.1, and subsection 1 of section 27-10-01.4 of the North Dakota Century Code, relating to interim orders in domestic relations proceedings; and to provide an effective date.

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

Sens. Streibel, Lindaas, Naaden, Solberg, Tallackson, Wogsland introduced:

SB 2317: A BILL for an Act to amend and reenact sections 54-03-20 and 54-35-10 of the North Dakota Century Code, relating to reimbursement of members of the legislative assembly and members of the legislative council and legislative council committees.

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

Sens. O'Connell, Kringstad and Reps. Brown, Froseth, Sitz introduced:

SB 2318: A BILL for an Act to amend and reenact subsection 4 of section 57-40.3-01 of the North Dakota Century Code, relating to motor vehicle manufacturers' rebates as a deduction for motor vehicle excise tax purposes; and to provide an effective date.

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

Sens. Heinrich, Lips, Thane and Reps. Coats, Hausauer, Sabby introduced:

SB 2319: A BILL for an Act to create and enact two new sections to chapter 15-39.1 and a new subsection to section 21-10-06 of the North Dakota Century Code, relating to retiree health benefits for teachers; to amend and reenact sections 15-39.1-23, 15-39.1-28, 15-39.1-29, 15-39.1-30, and subdivision b of subsection 1 of section 57-15-14.2 of the North Dakota Century Code, relating to retiree health benefits for teachers; to provide an appropriation; and to provide for application of this Act.

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

Sens. Mathern, LaFountain, Redlin, Sand, Teneffos introduced:

SB 2320: A BILL for an Act to require the department of human services to provide compulsive gambling treatment services; and to provide an appropriation.

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

Sens. Nalewaja, Christmann, Freborg and Reps. Austin, Poolman introduced:

SB 2321: A BILL for an Act to amend and reenact section 34-08-14 of the North Dakota Century Code, relating to mediation of labor disputes by the commissioner of labor.

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

FIRST READING OF SENATE CONCURRENT RESOLUTIONS

Sens. Wanzek, Christmann and Reps. Belter, Nichols, Retzer, Wald introduced:

SCR 4022: A concurrent resolution urging Congress to enact legislation allowing an income tax deduction or credit for health insurance premiums.

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

Sens. Holmberg, W. Stenehjem, Traynor and Rep. Kretschmar introduced:

SCR 4023: A concurrent resolution for the amendment of subsection 2 of section 6 of article VIII of the Constitution of North Dakota, relating

to the appointment and terms of members of the state board of higher education.

Was read the first time and referred to the **Joint Constitutional Revision Committee.**

FIRST READING OF HOUSE BILLS

HB 1080: A BILL for an Act to amend and reenact section 55-08-05 of the North Dakota Century Code, relating to charges for special technical assistance services by the parks and recreation department.

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

HB 1119: A BILL for an Act to amend and reenact section 46-04-19 of the North Dakota Century Code, relating to disposition of laws by the secretary of state.

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

HB 1134: A BILL for an Act to amend and reenact section 57-43.1-03.1 of the North Dakota Century Code and section 6 of chapter 404 of the 1991 Session Laws, relating to reductions of refunds of motor vehicle fuels taxes on fuel used for agricultural purposes and the duration of motor vehicle registration fees; to provide an effective date; to provide an expiration date; and to declare an emergency.

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

HB 1136: A BILL for an Act to amend and reenact subsection 3 of section 57-38-62 of the North Dakota Century Code, relating to penalties for the nonpayment, underpayment, or late payment of estimated tax; and to provide an effective date.

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

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

William C. Parker, Secretary