

## JOURNAL OF THE SENATE

## Fifty-fourth Legislative Assembly

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Bismarck, January 30, 1995

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

The prayer was offered by Fr. Jeff Zwack, St. Anthony's Catholic Church, Linton.

The roll was called and all members were present except Senators Langley and Sand.

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 2082, SB 2086, SB 2127, SB 2167, SB 2179, SB 2237, SB 2291, SB 2316.

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

MADAM PRESIDENT: The House has passed and your favorable consideration is requested on: HB 1012, HB 1047, HB 1188, HB 1196, HB 1197, HB 1220, HB 1326, HB 1357, HB 1403, HB 1410, HB 1480.

## 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 1093.

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

MR. SPEAKER: The President has signed: HB 1093.

## CONSIDERATION OF AMENDMENTS

SB 2040: SEN. YOCKIM (Human Services Committee) MOVED that the amendments on SJ page 249 be adopted and then be placed on the Eleventh order with DO PASS, which motion prevailed.

## CONSIDERATION OF AMENDMENTS

SB 2097: SEN. W. STENEHJEM (Judiciary Committee) MOVED that the amendments on SJ pages 249-250 be adopted and then be placed on the Eleventh order with DO NOT PASS, which motion prevailed.

## MOTION

SEN. W. STENEHJEM MOVED that the rules be suspended and that SB 2097 be deemed properly engrossed and be placed on the Eleventh order, as amended, for second reading and final passage, which motion prevailed.

## SECOND READING OF SENATE BILL

SB 2097: A BILL for an Act to create and enact a new section to chapter 12.1-16, a new section to chapter 12.1-32, a new subdivision to subsection 1 of section 12.1-32-02, and chapter 12.1-32.1 of the North Dakota Century Code, relating to the sentence of death for aggravated murder and providing a proceeding separate from the trial to determine the sentence; to amend and reenact sections 12.1-32-01, 12.1-32-03.1, 29-04-01, and 29-04-02 of the North Dakota Century Code, relating to the classification of offenses and the statute of limitations for aggravated murder; and to provide a penalty.

## ROLL CALL

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

read, the roll was called and there were 14 YEAS, 33 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

YEAS: Bowman; Christmann; Freborg; Kinnoin; Krebsbach; Mutch; Nelson, G.; Schobinger; Solberg; Streibel; Tallackson; Tennefos; Thane; Tomac

NAYS: Andrist; DeMers; Goetz; Grindberg; Heinrich; Heitkamp; Holmberg; Kelsh; Krauter; Kringstad; LaFountain; Lee; Lindaas; Lips; Mathern; Mushik; Naaden; Nalewaja; Nelson, C.; Nething; O'Connell; Redlin; Robinson; Scherber; St. Aubyn; Stenehjem, B.; Stenehjem, W.; Traynor; Urlacher; Wanzek; Watne; Wogsland; Yockim

ABSENT AND NOT VOTING: Langley; Sand

Engrossed SB 2097 lost.

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CONSIDERATION OF AMENDMENTS

SB 2121: SEN. W. STENEHJEM (Government and Veterans Affairs Committee) MOVED that the amendments on SJ page 250 be adopted and then be placed on the Eleventh order with DO PASS, which motion prevailed.

CONSIDERATION OF AMENDMENTS

SB 2224: SEN. WATNE (Judiciary Committee) MOVED that the amendments on SJ page 251 be adopted and then be placed on the Eleventh order with DO PASS, which motion prevailed.

CONSIDERATION OF AMENDMENTS

SB 2122: SEN. TRAYNOR (Judiciary Committee) MOVED that the amendments on SJ pages 250-251 be adopted and then be placed on the Eleventh order with DO PASS, which motion prevailed.

SECOND READING OF SENATE BILL

SB 2122: A BILL for an Act to amend and reenact subsections 1 and 7 of section 28-32-09 of the North Dakota Century Code, relating to subpoenas, discovery, and protective orders in administrative proceedings.

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, 0 NAYS, 0 EXCUSED, 2 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, C.; Nelson, G.; Nething; O'Connell; Redlin; Robinson; Scherber; Schobinger; Solberg; St. Aubyn; Stenehjem, B.; Stenehjem, W.; Streibel; Tallackson; Tennefos; Thane; Tomac; Traynor; Urlacher; Wanzek; Watne; Wogsland; Yockim

ABSENT AND NOT VOTING: Langley; Sand

Engrossed SB 2122 passed and the title was agreed to.

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SECOND READING OF SENATE BILL

SB 2050: A BILL for an Act to create and enact a new section to chapter 15-40.1 of the North Dakota Century Code, relating to foundation aid payments for elementary summer school programs; and to provide an appropriation.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO NOT PASS, the roll was called and there were 17 YEAS, 30 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

YEAS: DeMers; Heinrich; Heitkamp; Kelsh; Krauter; LaFountain; Lindaas; Mathern; Mushik; Nelson, C.; O'Connell; Redlin; Robinson; Scherber; Tallackson; Wogsland; Yockim

NAYS: Andrist; Bowman; Christmann; Freborg; Goetz; Grindberg; Holmberg; Kinnoin; Krebsbach; Kringstad; Lee; Lips; Mutch; Naaden; Nalewaja; Nelson, G.; Nething; Schobinger; Solberg; St. Aubyn; Stenehjem, B.; Stenehjem, W.; Streibel; Tennefos; Thane; Tomac; Traynor; Urlacher; Wanzek; Watne

ABSENT AND NOT VOTING: Langley; Sand

Engrossed SB 2050 lost.

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MOTION

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

MOTION

SEN. GOETZ MOVED that the Senate be on the Fifth and Thirteenth orders of business and at the conclusion of those orders, the Senate stand adjourned until 1:00 p.m., Tuesday, January 31, 1995, which motion prevailed.

REPORT OF STANDING COMMITTEE

SB 2011: Appropriations Committee (Sen. Nething, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (12 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). SB 2011 was placed on the Sixth order on the calendar.

Page 1, replace lines 10 and 11 with:

"Salaries and wages	\$490,746
Operating expenses	96,389
Equipment	<u>6,000"</u>

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

DEPARTMENT 414 - SECURITIES COMMISSIONER

SENATE - This amendment provides object code-based line items for the Securities Commissioner's appropriation rather than program-based line items. The funding provided for each Securities Commissioner program is as follows:

	EXECUTIVE BUDGET	LEGISLATIVE CHANGES	LEGISLATIVE APPROPRIATION
Regulation	\$576,147	\$ 0	\$576,147
Salary and benefits adjustment	<u>16,988</u>	<u>0</u>	<u>16,988</u>
Total	\$593,135	\$ 0	\$593,135

Although the line items are changed to object code-based line items, the agency is expected to monitor and strive to achieve its performance measure goals and objectives.

REPORT OF STANDING COMMITTEE

SB 2024: Appropriations Committee (Sen. Nething, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (12 YEAS,

0 NAYS, 2 ABSENT AND NOT VOTING). SB 2024 was placed on the Sixth order on the calendar.

Page 1, replace lines 10 and 11 with:

"Salaries and wages	\$ 812,409
Operating expenses	3,244,393
Equipment	15,378
Grants	<u>60,000"</u>

Re-number accordingly

#### STATEMENT OF PURPOSE OF AMENDMENT:

DEPARTMENT 740 - TOURISM

SENATE - This amendment provides object code-based line items for the Tourism Department's appropriation rather than program-based line items. The Tourism Department has only one program - tourism.

Although the line items contained in the bill are changed to object code-based line items, the agency is expected to monitor and strive to achieve its performance measure goals and objectives.

#### REPORT OF STANDING COMMITTEE

SB 2088: Natural Resources Committee (Sen. Traynor, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2088 was placed on the Sixth order on the calendar.

Page 1, line 7, remove the overstrike over "~~designed or redesigned~~", after the first overstruck comma insert "or", and remove the overstrike over "~~made or remade~~"

Page 1, line 8, replace "that" with "which"

Re-number accordingly

#### REPORT OF STANDING COMMITTEE

SB 2146: Natural Resources Committee (Sen. Traynor, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (5 YEAS, 1 NAY, 1 ABSENT AND NOT VOTING). SB 2146 was placed on the Sixth order on the calendar.

Page 1, line 22, after "project" insert ". Any sale, transfer, or exchange of property may be made only with the owner of the surrounding property from which the property was obtained"

Re-number accordingly

#### REPORT OF STANDING COMMITTEE

SB 2147: Natural Resources Committee (Sen. Traynor, Chairman) recommends DO NOT PASS (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2147 was placed on the Eleventh order on the calendar.

#### REPORT OF STANDING COMMITTEE

SB 2177: Appropriations Committee (Sen. Nething, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (10 YEAS, 2 NAYS, 2 ABSENT AND NOT VOTING). SB 2177 was placed on the Sixth order on the calendar.

Page 1, line 2, after "to" insert "budget section"

Page 1, line 3, remove "by the emergency commission"

Page 1, line 7, overstrike "Commission" and insert immediately thereafter "Budget section"

Page 1, line 8, overstrike "emergency commission" and insert immediately thereafter "budget section"

Page 1, line 15, overstrike "emergency commission" and insert immediately thereafter "budget section"

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

SENATE - This amendment requires Budget Section approval, rather than Emergency Commission approval, for state agencies to receive and expend moneys from gifts, grants, or donations which are to be used for new or existing programs.

**REPORT OF STANDING COMMITTEE**

SB 2218: Natural Resources Committee (Sen. Traynor, Chairman) recommends DO PASS (4 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). SB 2218 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

SB 2232: Natural Resources Committee (Sen. Traynor, Chairman) recommends DO PASS (4 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). SB 2232 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

SB 2236: Government and Veterans Affairs Committee (Sen. Krebsbach, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS and BE REREFERRED to the Appropriations Committee (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2236 was placed on the Sixth order on the calendar.

Page 2, line 2, remove the ~~over~~ "three" and remove "four"

Page 2, line 5, remove the ~~over~~ "five" and remove "six"

Page 2, line 7, remove the ~~over~~ "eight" and remove "nine"

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

SB 2257: Government and Veterans Affairs Committee (Sen. Krebsbach, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2257 was placed on the Sixth order on the calendar.

Page 1, line 2, after "student" insert "cooperative education or"

Page 1, line 3, after "executive" insert "and legislative"

Page 1, line 7, after "student" insert "cooperative education or"

Page 1, line 8, after "administer" insert "within the executive and legislative branches of state government" and remove "college student intern"

Page 1, line 9, remove "while interning" and after "for" insert "participating in a cooperative education or internship program"

Page 1, line 10, remove "agencies within the executive branch of state government"

Page 1, line 12, after "by" insert "an agency recognized by"

Page 1, line 14, after "the" insert "cooperative education or"

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**SB 2375:** Natural Resources Committee (Sen. Traynor, Chairman) recommends **DO NOT PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2375 was placed on the Eleventh order on the calendar.

#### FIRST READING OF HOUSE BILLS

**HB 1012:** A BILL for an Act to provide an appropriation for defraying the expenses of the council on the arts and an appropriation of funds from the cultural endowment fund.

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

**HB 1047:** A BILL for an Act to amend and reenact section 15-59-02.1 of the North Dakota Century Code, relating to legislative intent regarding the delivery of special education.

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

**HB 1188:** A BILL for an Act to amend and reenact section 34-06-12 of the North Dakota Century Code, relating to orders issued by the commissioner of labor.

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

**HB 1196:** A BILL for an Act to amend and reenact section 4-10.2-03 of the North Dakota Century Code, relating to membership on the oilseed council.

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

**HB 1197:** A BILL for an Act to amend and reenact section 57-17-02 of the North Dakota Century Code, relating to the date of a special election to authorize an excess levy of taxes.

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

**HB 1220:** A BILL for an Act to create and enact a new section to chapter 51-14 of the North Dakota Century Code, relating to delinquency charges by retailers; and to amend and reenact section 51-14-03 of the North Dakota Century Code, relating to the limitation on credit service charges.

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

**HB 1326:** A BILL for an Act to create and enact a new subsection to section 43-28-25 of the North Dakota Century Code, relating to the practice of dentistry.

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

**HB 1357:** A BILL for an Act to create and enact a new subsection to section 57-38-40 of the North Dakota Century Code, relating to refunds of overpaid penalty and interest; and to provide an effective date.

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

**HB 1403:** A BILL for an Act to amend and reenact subsection 4 of section 19-03.1-01, section 19-03.1-01.1, subsection 5 of section 19-03.1-05, subsection 14 of section 43-15-10, and subsection 4 of section 54-12-14 of the North Dakota Century Code, relating to the controlled substances board and the state board of pharmacy and schedule I controlled substances.

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

**HB 1410:** A BILL for an Act to create and enact a new subsection to section 53-01-07 of the North Dakota Century Code, relating to the establishment of a fee to pay for expenses of members of the athletic advisory board.

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

**HB 1480:** A BILL for an Act to amend and reenact section 57-55-03 of the North Dakota Century Code, relating to the time during which a discount is allowed for payment of taxes on mobile homes; 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**