

JOURNAL OF THE SENATE

Fifty-fifth Legislative Assembly

* * * * *

Bismarck, January 14, 1997

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

The prayer was offered by Pastor Dale V. Nabben, Heart River Lutheran, Mandan, and American Lutheran Church, Flasher.

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

A quorum was declared by the President.

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 1065, HB 1069, HB 1091, HB 1124.

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 1066, HB 1070, HB 1114, HB 1128.

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

MR. SPEAKER: The Senate has passed and your favorable consideration is requested on: SB 2010, SB 2035, SB 2104, SB 2105, SB 2107.

SECOND READING OF SENATE BILL

SB 2031: A BILL for an Act to amend and reenact section 15-40.1-18 of the North Dakota Century Code, relating to state transportation payments to school districts.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 48 YEAS, 0 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Andrist; Berg; Christmann; Cook; DeMers; Fischer; Freborg; Goetz; Grindberg; Heitkamp; Holmberg; Kelsh; Kinnoin; Klein; Krauter; Krebsbach; Kringstad; LaFountain; Lee; Lindaas; Lips; Mathern; Mutch; Mutzenberger; Naaden; Nalewaja; Nelson, C.; Nelson, G.; Nething; O'Connell; Redlin; Robinson; Sand; Schobinger; Solberg; St. Aubyn; Stenehjem, B.; Stenehjem, W.; Tallackson; Thane; Thompson; Tomac; Traynor; Urlacher; Wanzek; Watne; Wogsland; Yockim

ABSENT AND NOT VOTING: Bowman

Engrossed SB 2031 passed and the title was agreed to.

SECOND READING OF SENATE CONCURRENT RESOLUTION

SCR 4001: A concurrent resolution directing the Legislative Council to monitor mental health and foster care services.

The question being on the final adoption of the amended resolution, which has been read, and has committee recommendation of DO PASS.

Engrossed SCR 4001 was declared adopted on a voice vote, and the title was agreed to.

SECOND READING OF SENATE BILL

SB 2086: A BILL for an Act to create and enact a new section to chapter 6-09.4 of the North Dakota Century Code, relating to the protection of service provided or made available by a political subdivision through a loan from the municipal bond bank or any other state agency or enterprise.

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 48 YEAS, 0 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Andrist; Berg; Christmann; Cook; DeMers; Fischer; Freborg; Goetz; Grindberg; Heitkamp; Holmberg; Kelsh; Kinnoin; Klein; Krauter; Krebsbach; Kringstad; LaFountain; Lee; Lindaas; Lips; Mathern; Mutch; Mutzenberger; Naaden; Nalewaja; Nelson, C.; Nelson, G.; Nething; O'Connell; Redlin; Robinson; Sand; Schobinger; Solberg; St. Aubyn; Stenehjem, B.; Stenehjem, W.; Tallackson; Thane; Thompson; Tomac; Traynor; Urlacher; Wanzek; Watne; Wogsland; Yockim

ABSENT AND NOT VOTING: Bowman

SB 2086 passed and the title was agreed to.

SECOND READING OF SENATE BILL

SB 2087: A BILL for an Act to amend and reenact subsection 1 of section 6-09.4-10 of the North Dakota Century Code, relating to the required debt service reserve of the municipal bond bank; 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 48 YEAS, 0 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Andrist; Berg; Christmann; Cook; DeMers; Fischer; Freborg; Goetz; Grindberg; Heitkamp; Holmberg; Kelsh; Kinnoin; Klein; Krauter; Krebsbach; Kringstad; LaFountain; Lee; Lindaas; Lips; Mathern; Mutch; Mutzenberger; Naaden; Nalewaja; Nelson, C.; Nelson, G.; Nething; O'Connell; Redlin; Robinson; Sand; Schobinger; Solberg; St. Aubyn; Stenehjem, B.; Stenehjem, W.; Tallackson; Thane; Thompson; Tomac; Traynor; Urlacher; Wanzek; Watne; Wogsland; Yockim

ABSENT AND NOT VOTING: Bowman

SB 2087 passed, the title was agreed to, and the emergency clause was declared carried.

MOTION

SEN. GOETZ MOVED that the absent member 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., Wednesday, January 15, 1997, which motion prevailed.

REPORT OF STANDING COMMITTEE

SB 2067: Political Subdivisions Committee (Sen. Andrist, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2067 was placed on the Sixth order on the calendar.

Page 1, line 8, overstrike "in" and remove "the auditor's"

Page 1, line 9, overstrike "office"

ReNUMBER accordingly

REPORT OF STANDING COMMITTEE

SB 2075: Natural Resources Committee (Sen. Traynor, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2075 was placed on the Sixth order on the calendar.

Page 1, line 1, replace "subsection 11 of section" with "sections" and after "49-22-03" insert "and 49-22-07"

Page 1, line 2, remove "the definition of" and replace "facility" with "facilities and power emergencies"

Page 1, line 4, replace "Subsection 11 of section" with "Section"

Page 1, replace lines 6 through 23 with:

"49-22-03. Definitions. In this chapter, unless the context or subject matter otherwise requires:

1. "Certificate" means the certificate of site compatibility or the certificate of corridor compatibility issued under ~~the provisions of~~ this chapter.
2. "Commission" means the North Dakota public service commission.
3. "Construction" includes any clearing of land, excavation, or other action that would affect the environment of the site after April 9, 1975, but does not include activities incident to preliminary engineering or environmental studies.
4. "Corridor" means the general location of a transmission facility.
5. "Energy conversion facility" means any plant, addition, or combination of plant and addition, designed for or capable of:
 - a. Generation of fifty thousand kilowatts or more of electricity;
 - b. Manufacture or refinement of one hundred million cubic feet [2831684.66 cubic meters] or more of gas per day, regardless of the end use of the gas;
 - c. Manufacture or refinement of fifty thousand barrels [7949.36 cubic meters] or more of liquid hydrocarbon products per day; or
 - d. Enrichment of uranium minerals.
6. "Facility" means an energy conversion facility, transmission facility, or both.
7. "Permit" means the permit for the construction of a transmission facility within a designated corridor issued under ~~the provisions of~~ this chapter.
8. "Person" includes any individual, firm, association, partnership, cooperative, corporation, limited liability company, or any department, agency, or instrumentality of a state or of the federal government, or any subdivision thereof.
9. "Power emergency" means an electric transmission line and associated facilities that have been damaged or destroyed by natural or manmade causes resulting in a loss of power supply to consumers of the power.
- ~~10.~~ "Route" means the specific location of a transmission facility within a designated corridor.
- ~~40.~~ 11. "Site" means the location of an energy conversion facility.
- ~~44.~~ 12. "Transmission facility" means any of the following:
 - a. An electric transmission line and associated facilities with a design in excess of one hundred fifteen kilovolts. "Transmission facility" does not include a temporary transmission line loop that is:
 - (1) Connected and adjacent to an existing transmission facility that was sited under this chapter;
 - (2) Within the corridor of the sited facility and does not cross known exclusion or avoidance areas;
 - (3) Less than one mile long; and
 - (4) In place for less than one year.

- b. A gas or liquid transmission line and associated facilities designed for or capable of transporting coal, gas, liquid hydrocarbons, liquid hydrocarbon products, or carbon dioxide. ~~The provision of this~~ This subdivision does not apply to an oil or gas pipeline gathering system. For purposes of this chapter, a gathering system includes the pipelines and associated facilities used to collect oil from the lease site to the first pipeline storage site where pressure is increased for further transport, or pipelines and associated facilities used to collect gas from the well to the gas processing facility.
- c. A liquid transmission line and associated facilities designed for or capable of transporting water from or to an energy conversion facility.
- 42- 13. "Utility" means any person engaged in and controlling the generation, manufacture, refinement, or transmission of electric energy, gas, liquid hydrocarbons, or liquid hydrocarbon products, including, ~~but not limited to,~~ electric power generation or transmission, coal gasification, coal liquefaction, petroleum refinement, uranium enrichment, and the transmission of coal, gas, liquid hydrocarbons, or liquid hydrocarbon products, or the transmission of water from or to any energy conversion facility.

SECTION 2. AMENDMENT. Section 49-22-07 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

49-22-07. Certificate of site compatibility or route permit required. ~~No~~ A utility ~~shall~~ may not begin construction of an energy conversion facility or transmission facility in the state, or exercise the right of eminent domain in connection with ~~such~~ that construction, without first having obtained a certificate of site compatibility or a route permit from the commission pursuant to this chapter. A ~~The~~ facility ~~shall thereafter~~ must be constructed, operated, and maintained in conformity with ~~such~~ the certificate or permit, and any terms ~~and~~ conditions ~~contained therein and subsequent,~~ or modifications ~~thereof~~ of the certificate or permit. A certificate or permit may be transferred, subject to the approval of the commission, to any person who agrees to comply with its terms, conditions, and modifications.

If a power emergency exists which necessitates the relocation of a portion of an electric transmission line and associated facilities from the designated route, the owner of the line shall give telephonic notice to the commission in advance of the relocation. The line may then be relocated to restore power as soon as practicable. After the line has been relocated the owner shall file with the commission a request to approve the relocated route."

Page 2, remove lines 1 and 2

Re-number accordingly

REPORT OF STANDING COMMITTEE

SB 2076: Natural Resources Committee (Sen. Traynor, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (4 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2076 was placed on the Sixth order on the calendar.

Page 1, line 8, remove the overstrike over "en"

Page 1, line 9, remove the overstrike over "applications filed by" and insert immediately thereafter "gas or electric public utilities and rate decrease proceedings"

Re-number accordingly

REPORT OF STANDING COMMITTEE

SB 2103: Judiciary Committee (Sen. W. Stenehjem, Chairman) recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2103 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2112: Judiciary Committee (Sen. W. Stenehjem, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS**

(7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2112 was placed on the Sixth order on the calendar.

Page 2, line 29, after the period insert "Thereafter, an order to transfer custody may be entered only if a new arrest warrant is issued."

Page 2, after line 31, insert:

"3. An order to transfer custody is not appealable. An order denying transfer is appealable."

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2117: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2117 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2123: Judiciary Committee (Sen. W. Stenehjem, Chairman) recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2123 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2134: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2134 was placed on the Eleventh order on the calendar.

FIRST READING OF SENATE BILLS

Sens. Tallackson, Sand and Reps. Gorder, Henegar, Monson, Olson introduced:

SB 2159: A BILL for an Act to create and enact subsection 11 to section 39-24-09 of the North Dakota Century Code, relating to liability insurance for snowmobiles; to amend and reenact subsection 9 of section 39-24-01 and section 39-24-11 of the North Dakota Century Code, relating to liability insurance for snowmobiles; and to provide a penalty.

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

Sens. Tallackson, Sand and Reps. Gorder, Henegar, Monson, Olson introduced:

SB 2160: A BILL for an Act to amend and reenact subdivision c of subsection 5 of section 39-24-09 and section 39-24-11 of the North Dakota Century Code, relating to driving a snowmobile while under the influence of intoxicating liquor or a controlled substance.

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

Sens. B. Stenehjem, St. Aubyn and Reps. Carlson, Monson introduced:

SB 2161: A BILL for an Act to amend and reenact sections 43-09-13.2 and 43-18-11.4 of the North Dakota Century Code, relating to licensing requirements for plumbing inspectors and electrical inspectors.

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

Sen. Holmberg introduced:

SB 2162: A BILL for an Act to repeal section 34-06.1-08 of the North Dakota Century Code, relating to posting of copies of the equal pay law by the commissioner of labor.

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

Sens. Klein, Naaden, Robinson and Reps. DeKrey, D. Johnson, Weisz introduced:

SB 2163: A BILL for an Act to amend and reenact section 11-18-05 of the North Dakota Century Code, relating to fees charged by the county register of deeds.

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

Sens. Wanzek, Heitkamp and Reps. Fairfield, Jacobs, Murphy introduced:

SB 2164: A BILL for an Act to amend and reenact section 24-05-04 of the North Dakota Century Code, relating to purchases and agreements for the use of road machinery.

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

Sens. W. Stenehjem, Holmberg, St. Aubyn and Reps. Delmore, Kliniske, Poolman introduced:

SB 2165: A BILL for an Act to create and enact a new section to chapter 25-06 of the North Dakota Century Code, relating to the purchase and resale of vision specific adaptive aids, devices, and appliances by the school for the blind and the creation of a revolving fund; to provide a continuing appropriation; and to declare an emergency.

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

Sens. Schobinger, O'Connell, Traynor and Reps. Grande, Kunkel, Mahoney introduced:
SB 2166: A BILL for an Act to provide for the advance purchase of tuition credits and to establish a tuition account program; and to provide a continuing appropriation.
Was read the first time and referred to the **Education Committee**.

Sens. W. Stenehjem, C. Nelson and Reps. Kretschmar, Mahoney, Stenehjem introduced:
SB 2167: A BILL for an Act to create and enact section 14-09-06.6 of the North Dakota Century Code, relating to motions for postjudgment custody modification.
Was read the first time and referred to the **Judiciary Committee**.

Sens. W. Stenehjem, C. Nelson, Traynor and Reps. Kretschmar, Mahoney, Stenehjem introduced:
SB 2168: A BILL for an Act to create and enact a new subsection to section 12.1-20-09 of the North Dakota Century Code, relating to testimony in divorce proceedings.
Was read the first time and referred to the **Judiciary Committee**.

Sen. Lips introduced:
SB 2169: A BILL for an Act to create and enact a new section to chapter 6-06 of the North Dakota Century Code, relating to immunity of credit union volunteers.
Was read the first time and referred to the **Industry, Business and Labor Committee**.

Sens. Nething, Wanzek introduced:
SB 2170: A BILL for an Act to amend and reenact section 23-06-03 of the North Dakota Century Code, relating to the duty of counties to bury deceased residents or inmates of public institutions.
Was read the first time and referred to the **Political Subdivisions Committee**.

Sens. Traynor, Krebsbach, Redlin and Reps. Berg, Nicholas introduced:
SB 2171: A BILL for an Act to amend and reenact sections 41-03-03, 41-03-04, 41-03-53, 41-03-54, 41-04-19, and 41-04-20 of the North Dakota Century Code, relating to the liability for paying an unauthorized demand draft.
Was read the first time and referred to the **Industry, Business and Labor Committee**.

Sens. Watne, Schobinger introduced:
SB 2172: A BILL for an Act to amend and reenact sections 4-22-17, 4-22-22, and 4-22-48 of the North Dakota Century Code, relating to the election of soil conservation district supervisors and consolidation of soil conservation districts.
Was read the first time and referred to the **Agriculture Committee**.

Sens. Freborg, Andrist, O'Connell and Reps. Grosz, Monson introduced:
SB 2173: A BILL for an Act to amend and reenact sections 15-40.1-09, 15-41-06, 15-47-33, 15-47-33.1, and 15-59-02.1 of the North Dakota Century Code, relating to the days of classroom instruction in each school year; and to repeal sections 15-38-04.1 and 15-47-14 of the North Dakota Century Code, relating to school holidays and North Dakota education association meeting days.
Was read the first time and referred to the **Education Committee**.

Sens. Wogsland, Kinnoin, Thane and Reps. Devlin, Kroeplin introduced:
SB 2174: A BILL for an Act to provide an appropriation for county snow removal; and to declare an emergency.
Was read the first time and referred to the **Appropriations Committee**.

FIRST READING OF HOUSE BILLS

HB 1065: A BILL for an Act to amend and reenact section 1-03-05 and subsection 1 of section 16.1-01-09 of the North Dakota Century Code, relating to acts performed on Saturdays and business days.
Was read the first time and referred to the **Judiciary Committee**.

HB 1066: A BILL for an Act to amend and reenact section 6-09-29 of the North Dakota Century Code, relating to the audit of the Bank of North Dakota.
Was read the first time and referred to the **Industry, Business and Labor Committee**.

HB 1069: A BILL for an Act to amend and reenact section 57-02-27.2 of the North Dakota Century Code, relating to use of annual gross returns to determine agricultural property assessments; and to provide an effective date.
Was read the first time and referred to the **Finance and Taxation Committee**.

HB 1070: A BILL for an Act to amend and reenact section 57-02-27.2 of the North Dakota Century Code, relating to assessed valuation of irrigated cropland; and to provide an effective date.

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

HB 1091: A BILL for an Act to amend and reenact sections 30.1-31-10 and 30.1-31-19 of the North Dakota Century Code, relating to alteration of rights and discharge under nonprobate transfers on death.

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

HB 1114: A BILL for an Act to amend and reenact subsections 1 and 3 of section 5-02-07.2 of the North Dakota Century Code, relating to registration and marketing of beer sold in kegs.

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

HB 1124: A BILL for an Act to create and enact a new section to chapter 44-04 of the North Dakota Century Code, relating to access to financial account numbers; and to declare an emergency.

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

HB 1128: A BILL for an Act to amend and reenact section 53-01-07 of the North Dakota Century Code, relating to license fees for boxing officials; and to declare an emergency.

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

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

William C. Parker, Secretary