

JOURNAL OF THE SENATE

Fifty-fifth Legislative Assembly

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Bismarck, March 3, 1997

The Senate convened at 1:30 p.m., with President Myrdal presiding.

The prayer was offered by Senator Darlene Watne.

The roll was called and all members were present.

A quorum was declared by the President.

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

MADAM PRESIDENT: The House has passed unchanged: SB 2055, SB 2059, SCR 4001.

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

MR. SPEAKER: The Senate has passed and your favorable consideration is requested on: SCR 4045, SCR 4048, SCR 4049, SCR 4053, SCR 4054, SCR 4055.

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

MR. SPEAKER: The Senate has passed unchanged: HB 1102, HB 1144, HB 1247, HB 1250, HB 1272, HB 1282, HB 1284, HB 1328, HB 1366, HCR 3014.

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

MR. SPEAKER: The President has signed and your signature is respectfully requested on: SB 2055, SB 2059, SCR 4001.

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

MR. SPEAKER: The President has signed: HCR 3006.

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

MADAM PRESIDENT: The House has passed and your favorable consideration is requested on: HCR 3042.

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

MADAM PRESIDENT: The House has passed unchanged: SB 2090, SB 2092, SB 2130, SB 2155, SB 2156, SB 2170, SB 2190, SB 2303, SB 2398.

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

MADAM PRESIDENT: The House has failed to pass: SB 2204, SB 2219.

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

MADAM PRESIDENT: The House has failed to pass: SB 2058.

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

MADAM PRESIDENT: The Speaker has signed: SB 2044, SB 2077, SB 2085, SB 2162, SB 2205, SB 2334.

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

MADAM PRESIDENT: The Speaker has signed: SB 2055, SB 2059, SCR 4001.

MOTION

SEN. GOETZ MOVED that the rules be suspended and after action taken on the Sixth order, SCR 4026 and SCR 4042, as amended, be placed on the Eleventh order for immediate second reading and final passage, which motion prevailed.

CONSIDERATION OF AMENDMENTS

SCR 4026: SEN. TRAYNOR (Judiciary Committee) MOVED that the amendments on SJ page 627 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

SECOND READING OF SENATE CONCURRENT RESOLUTION

SCR 4026: A concurrent resolution directing the Legislative Council to study the feasibility and desirability of establishing a statewide domestic violence task force to address domestic

violence prevention issues and adopt a statewide domestic violence prevention strategy.

The question being on the final adoption of the amended resolution, which has been read.

Engrossed SCR 4026 was declared adopted on a voice vote, and the title was agreed to.

CONSIDERATION OF AMENDMENTS

SCR 4042: SEN. TRAYNOR (Judiciary Committee) MOVED that the amendments on SJ page 627 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

SECOND READING OF SENATE CONCURRENT RESOLUTION

SCR 4042: A concurrent resolution directing the Legislative Council to study the use of "abuse," and "neglect," and "exploitation" in the North Dakota Century Code.

The question being on the final adoption of the amended resolution, which has been read.

Engrossed SCR 4042 was declared adopted on a voice vote, and the title was agreed to.

CONSIDERATION OF AMENDMENTS

HB 1195: SEN. ANDRIST (Judiciary Committee) MOVED that the amendments on SJ page 628 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

SECOND READING OF SENATE CONCURRENT RESOLUTION

SCR 4043: A concurrent resolution directing the Legislative Council to study the issue of insurance brokers acting as consultants and the public policy of prohibiting insurance consultants from collecting commissions, consulting fees, and policy fees.

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

SCR 4043 was declared adopted on a voice vote, and the title was agreed to.

SECOND READING OF SENATE CONCURRENT RESOLUTION

SCR 4044: A concurrent resolution directing the Legislative Council to study ways of improving the filing of agricultural liens so losses resulting from incomplete or inaccurate information can be reduced.

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

SCR 4044 was declared adopted on a voice vote, and the title was agreed to.

SECOND READING OF SENATE CONCURRENT RESOLUTION

SCR 4052: A concurrent resolution directing the Legislative Council to study occupational and professional licensing entities with an emphasis on methods to privatize licensing entities.

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

SCR 4052 was declared adopted on a voice vote, and the title was agreed to.

SECOND READING OF HOUSE BILL

HB 1005: A BILL for an Act to provide an appropriation for defraying the expenses of the state treasurer; and to amend and reenact section 54-11-13 of the North Dakota Century Code, relating to the salary of the state treasurer.

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; Berg; Bowman; 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

HB 1005 passed and the title was agreed to.

SECOND READING OF HOUSE BILL

HB 1056: A BILL for an Act to repeal sections 20.1-02-18.4, 20.1-02-18.5, and 20.1-02-18.6 of the North Dakota Century Code, relating to the wetlands mediation advisory board.

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; Berg; Bowman; 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

HB 1056 passed and the title was agreed to.

SECOND READING OF HOUSE BILL

HB 1082: A BILL for an Act to create and enact a new section to chapter 54-02 of the North Dakota Century Code, relating to Knife River flint as the official state rock.

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 16 YEAS, 33 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

YEAS: Fischer; Freborg; Goetz; Grindberg; Kelsh; Krebsbach; Lips; Mutch; Mutzenberger; Naaden; Nalewaja; Nelson, G.; Nething; Stenehjem, B.; Stenehjem, W.; Traynor

NAYS: Andrist; Berg; Bowman; Christmann; Cook; DeMers; Heitkamp; Holmberg; Kinnoin; Klein; Krauter; Kringstad; LaFountain; Lee; Lindaas; Mathern; Nelson, C.; O'Connell; Redlin; Robinson; Sand; Schobinger; Solberg; St. Aubyn; Tallackson; Thane; Thompson; Tomac; Urlacher; Wanzek; Watne; Wogsland; Yockim

HB 1082 lost.

SECOND READING OF HOUSE BILL

HB 1094: A BILL for an Act to amend and reenact section 20.1-08-04.2 of the North Dakota Century Code, relating to the North Dakota game warden association raffle.

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; Berg; Bowman; 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

HB 1094 passed and the title was agreed to.

MOTION

SEN. GOETZ MOVED that Reengrossed SCR 4010, which is on the Twelfth order, be moved to the top of the calendar, which motion prevailed.

CONSIDERATION OF MESSAGE FROM THE HOUSE

SEN. FREBORG MOVED that the Senate do not concur in the House amendments to Reengrossed SCR 4010 as printed on SJ pages 577-579 and that a conference committee be appointed to meet with a like committee from the House.

REQUEST

SEN. HEITKAMP REQUESTED a recorded roll call vote on the motion to do not concur in the House amendments to Reengrossed SCR 4010, which request was granted.

ROLL CALL

The question being on the motion to do not concur in the House amendments to Reengrossed SCR 4010, the roll was called and there were 29 YEAS, 20 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

YEAS: Bowman; Christmann; Cook; Fischer; Freborg; Goetz; Grindberg; Holmberg; Klein; Krebsbach; Kringstad; Lee; Lips; Mutch; Naaden; Nalewaja; Nelson, G.; Nething; Sand; Schobinger; Solberg; St. Aubyn; Stenehjem, B.; Stenehjem, W.; Tomac; Traynor; Urlacher; Wanzek; Watne

NAYS: Andrist; Berg; DeMers; Heitkamp; Kelsh; Kinnoin; Krauter; LaFountain; Lindaas; Mathern; Mutzenberger; Nelson, C.; O'Connell; Redlin; Robinson; Tallackson; Thane; Thompson; Wogsland; Yockim

The Senate did not concur in the House amendments to Reengrossed SCR 4010.

APPOINTMENT OF CONFERENCE COMMITTEE

THE PRESIDENT APPOINTED as a Conference Committee on Reengrossed SCR 4010: Sens. Grindberg, Cook, O'Connell.

MOTION

SEN. GOETZ MOVED that HB 1118, which is on the Fourteenth order, be moved to the top of the calendar, which motion prevailed.

SECOND READING OF HOUSE BILL

HB 1118: A BILL for an Act to amend and reenact subsection 3 of section 37-19.1-04 of the North Dakota Century Code, relating to requests for administrative hearings from the commissioner of veterans' affairs.

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; Berg; Bowman; 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

HB 1118 passed and the title was agreed to.

SECOND READING OF HOUSE BILL

HB 1133: A BILL for an Act to amend and reenact section 54-17.5-03 of the North Dakota Century Code, relating to evaluating applications for funding from the lignite research fund.

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; Berg; Bowman; 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

HB 1133 passed and the title was agreed to.

SECOND READING OF HOUSE BILL

HB 1254: A BILL for an Act to amend and reenact sections 23-10-05 and 23-10-06 of the North Dakota Century Code, relating to the licensing of mobile home parks, trailer parks, and campgrounds; and to provide a penalty.

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; Berg; Bowman; 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

Engrossed HB 1254 passed and the title was agreed to.

SECOND READING OF HOUSE BILL

HB 1281: A BILL for an Act to amend and reenact section 24-01-28 of the North Dakota Century Code, relating to vacating land taken or acquired for highway purposes.

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; Berg; Bowman; 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

Engrossed HB 1281 passed and the title was agreed to.

MOTION

SEN. GOETZ MOVED that, for the purpose of adjusting work load, Engrossed HB 1101, Engrossed HB 1156, Engrossed HB 1168, HB 1189, Engrossed HB 1249, Engrossed HB 1353, Engrossed HB 1401, HB 1463, and HCR 3028 be returned to the Senate floor from the **Industry, Business and Labor Committee** and be rereferred to the **Political Subdivisions Committee**, which motion prevailed. Pursuant to Sen. Goetz's motion, Engrossed HB 1101, Engrossed HB 1156, Engrossed HB 1168, HB 1189, Engrossed HB 1249, Engrossed HB 1353, Engrossed HB 1401, HB 1463, and HCR 3028 were rereferred.

MOTION

SEN. GOETZ MOVED that, for the purpose of adjusting work load, HB 1287 and Engrossed HB 1320 be returned to the Senate floor from the **Industry, Business and Labor Committee**

and be rereferred to the **Agriculture Committee**, which motion prevailed. Pursuant to Sen. Goetz's motion, HB 1287 and Engrossed HB 1320 were rereferred.

DELIVERY OF ENROLLED BILLS AND RESOLUTIONS

The following resolution was delivered to the Secretary of State for his filing at the hour of 3:58 p.m., March 3, 1997: SCR 4001.

DELIVERY OF ENROLLED BILLS AND RESOLUTIONS

The following bills were delivered to the Governor for his approval at the hour of 3:58 p.m., March 3, 1997: SB 2044, SB 2055, SB 2059, SB 2077, SB 2085, SB 2162, SB 2205, SB 2334.

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, March 4, 1997, which motion prevailed.

REPORT OF STANDING COMMITTEE

SCR 4018: Judiciary Committee (Sen. W. Stenehjem, Chairman) recommends **DO NOT PASS** (4 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). SCR 4018 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SCR 4046: Education Committee (Sen. Freborg, Chairman) recommends **DO PASS** and **BE PLACED ON THE CONSENT CALENDAR** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SCR 4046 was placed on the Tenth order on the calendar.

REPORT OF STANDING COMMITTEE

SCR 4047: Education Committee (Sen. Freborg, Chairman) recommends **DO PASS** and **BE PLACED ON THE CONSENT CALENDAR** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SCR 4047 was placed on the Tenth order on the calendar.

REPORT OF STANDING COMMITTEE

SCR 4051: Education Committee (Sen. Freborg, Chairman) recommends **DO PASS** and **BE PLACED ON THE CONSENT CALENDAR** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SCR 4051 was placed on the Tenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1033, as engrossed: 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). Engrossed HB 1033 was placed on the Sixth order on the calendar.

Page 1, line 2, after "contracts" insert "; and to declare an emergency"

Page 2, after line 2, insert:

"SECTION 3. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1057: Natural Resources Committee (Sen. Traynor, Chairman) recommends **DO PASS** (4 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). HB 1057 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1073: Natural Resources Committee (Sen. Traynor, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1073 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1110: Government and Veterans Affairs Committee (Sen. Krebsbach, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1110 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1235: Government and Veterans Affairs Committee (Sen. Krebsbach, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1235 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1240: 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). HB 1240 was placed on the Sixth order on the calendar.

Page 1, line 16, after the period insert "If a board of park commissioners decides to leave an existing city pension plan, the board shall fund an actuarial study of the financial impacts to the pension fund upon request by the city governing body. Any losses or costs to the fund by the park district leaving the pension plan are the responsibility of the park district. A park district leaving the city's pension plan shall continue to fund the obligation of park district employees remaining with the city's plan or the park district shall fund all obligations of current and future retirees in the park district's plan."

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1280: Finance and Taxation Committee (Sen. Urlacher, Chairman) recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1280 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1341, as engrossed: Finance and Taxation Committee (Sen. Urlacher, Chairman) recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1341 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1441: Political Subdivisions Committee (Sen. Andrist, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). HB 1441 was placed on the Sixth order on the calendar.

Page 1, line 9, remove "conduct a meeting of the body"

Page 1, line 10, remove the first "or"

Renumber accordingly

FIRST READING OF HOUSE CONCURRENT RESOLUTION

HCR 3042: A concurrent resolution directing the Legislative Council to study the department of human services.

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

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

William C. Parker, Secretary