

JOURNAL OF THE SENATE

Fifty-fifth Legislative Assembly

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Bismarck, March 11, 1997

The Senate convened at 1:00 p.m., with President Pro Tem Holmberg presiding.

The prayer was offered by Reverend Stephen D. Eastin, First Presbyterian Church, Mandan.

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

A quorum was declared by the President Pro Tem.

CORRECTION AND REVISION OF THE JOURNAL

PRESIDENT PRO TEM: Your **Committee on Correction and Revision of the Journal (Sen. Sand, Chairman)** has carefully reexamined the Journals of the First and Twelfth Days and recommends that they be corrected as follows and when so corrected, recommends that the corrections be approved:

Page 35, line 42, replace the second "section" with "sections", remove "and section", and after "41-09-25" insert ", and 41-09-26"

Page 125, line 16, replace the second "section" with "sections", remove "and section", and after "41-09-25" insert ", and 41-09-26"

SEN. SAND MOVED that the report be adopted, which motion prevailed.

COMMUNICATION FROM GOVERNOR EDWARD T. SCHAFER

I am returning unsigned and hereby veto Senate Bill 2048.

I fully support the concept of cooperative agreements between North Dakota and South Dakota. Advancing technology and the movement to return responsibility from the federal government to the states are among the reasons this legislation is important. Requiring ratification of such agreements by the full Legislative Assembly, however, could significantly delay implementation of time-sensitive agreements.

For that reason, I am returning this legislation with the suggestion that a mechanism be developed that would shorten the time frame for legislative oversight.

I sincerely appreciate the hard work that has gone into this important legislation. I am anxious, therefore, that a workable alternative be developed that accomplishes our mutual goals for cooperation with our sister state.

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

MADAM PRESIDENT: The Speaker has signed: SB 2073, SB 2110, SB 2125, SB 2143, SCR 4008.

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

MR. SPEAKER: The Senate has passed unchanged: HCR 3038.

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

MR. SPEAKER: The Senate has amended and subsequently passed: HB 1093.

CONSIDERATION OF AMENDMENTS

HB 1035, as engrossed: SEN. LEE (Political Subdivisions Committee) MOVED that the amendments on SJ pages 697-698 be adopted and then be **REREFERRED** to the **Appropriations Committee** with **DO PASS**, which motion prevailed. Pursuant to Sen. Lee's motion, Engrossed HB 1035, as amended, was rereferred.

CONSIDERATION OF AMENDMENTS

HB 1186: SEN. WOGSLAND (Transportation Committee) MOVED that the amendments on SJ page 698 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

CONSIDERATION OF AMENDMENTS

HB 1190, as engrossed: SEN. FISCHER (Natural Resources Committee) MOVED that the amendments on SJ pages 698-699 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

CONSIDERATION OF AMENDMENTS

HB 1224, as engrossed: SEN. WOGSLAND (Transportation Committee) MOVED that the amendments on SJ page 699 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

CONSIDERATION OF AMENDMENTS

HB 1274, as engrossed: SEN. KINNOIN (Finance and Taxation Committee) MOVED that the amendments on SJ pages 699-700 be adopted and then be placed on the Fourteenth order with **DO PASS**.

REQUEST

SEN. HEITKAMP REQUESTED a verification vote on the motion to adopt the proposed amendments to Engrossed HB 1274, which request was granted.

The question being on the motion to adopt the amendments to Engrossed HB 1274.

The motion to adopt the amendments to Engrossed HB 1274 passed on a verification vote. Engrossed HB 1274, as amended, was placed on the Fourteenth order.

CONSIDERATION OF AMENDMENTS

HB 1302: SEN. CHRISTMANN (Natural Resources Committee) MOVED that the amendments on SJ page 700 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

CONSIDERATION OF AMENDMENTS

HB 1339: SEN. KLEIN (Agriculture Committee) MOVED that the amendments on SJ page 700 be adopted and then be **REREFERRED** to the **Appropriations Committee** with **DO PASS**, which motion prevailed. Pursuant to Sen. Klein's motion, HB 1339, as amended, was rereferred.

CONSIDERATION OF AMENDMENTS

HB 1405: SEN. TRAYNOR (Natural Resources Committee) MOVED that the amendments on SJ page 700 be adopted and then be placed on the Fourteenth order with **DO PASS**.

REQUEST

SEN. ST. AUBYN REQUESTED a recorded roll call vote on the motion to adopt the proposed amendments to HB 1405, which request was granted.

ROLL CALL

The question being on the motion to adopt the amendments to HB 1405, the roll was called and there were 22 YEAS, 26 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Christmann; Cook; DeMers; Fischer; Freborg; Kelsh; Krebsbach; Kringstad; LaFountain; Lee; Lips; Mathern; Mutch; Nalewaja; Nelson, C.; Redlin; Robinson; Stenehjem, B.; Stenehjem, W.; Thompson; Traynor; Yockim

NAYS: Andrist; Berg; Bowman; Goetz; Grindberg; Heitkamp; Holmberg; Kinnoin; Klein; Krauter; Lindaas; Mutzenberger; Naaden; Nelson, G.; O'Connell; Sand; Schobinger; Solberg; St. Aubyn; Tallackson; Thane; Tomac; Urlacher; Wanzek; Watne; Wogsland

ABSENT AND NOT VOTING: Nothing

The motion to adopt the amendments to HB 1405 failed to pass. HB 1405 was placed on the Fourteenth order.

CONSIDERATION OF AMENDMENTS

HB 1412, as engrossed: SEN. MUTCH (Industry, Business and Labor Committee) MOVED that the amendments on SJ pages 700-701 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

SECOND READING OF SENATE CONCURRENT RESOLUTION

SCR 4028: A concurrent resolution for the amendment of subdivision d of subsection 6 of section 6 of article VIII of the Constitution of North Dakota, relating to appropriations for the institutions of higher education.

ROLL CALL

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

NAYS: 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.; 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: Nothing

SCR 4028 was declared lost.

SECOND READING OF HOUSE BILL

HB 1332: A BILL for an Act to create and enact a new subdivision to subsection 6 of section 57-38-38 and a new subsection to section 57-38-62 of the North Dakota Century Code, relating to the exemption of penalties on refunded income taxes from an amended return or claim and permitting the application of a tax overpayment for a year as an estimated tax payment for the succeeding year; to amend and reenact section 57-38-35.2 and subsections 1 and 2 of section 57-38-45 of the North Dakota Century Code, relating to income tax interest and penalties; and to provide an effective date.

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 47 YEAS, 0 NAYS, 0 EXCUSED, 2 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; Nalewaja; Nelson, C.; Nelson, G.; 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: Naaden; Nothing

Engrossed HB 1332, as amended, passed and the title was agreed to.

SECOND READING OF HOUSE BILL

HB 1442: A BILL for an Act to amend and reenact section 48-01.1-03 of the North Dakota Century Code, relating to publication of advertising for bids for public improvement projects.

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 46 YEAS, 1 NAY, 0 EXCUSED, 2 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; Nalewaja; Nelson, C.; Nelson, G.; O'Connell; Redlin; Robinson; Schobinger; Solberg; St. Aubyn; Stenehjem, B.; Stenehjem, W.; Tallackson; Thane; Thompson; Tomac; Traynor; Urlacher; Wanzek; Watne; Wogsland; Yockim

NAYS: Sand

ABSENT AND NOT VOTING: Naaden; Nothing

Engrossed HB 1442, as amended, passed and the title was agreed to.

SECOND READING OF HOUSE BILL

HB 1156: A BILL for an Act to create and enact a new section to chapter 13-03.1 of the North Dakota Century Code, relating to the maximum interest charge for loans under one thousand dollars and license exemptions; to amend and reenact subsection 1 of section 6-01-01.1, sections 13-03.1-02, 13-03.1-03, 13-03.1-05, 13-03.1-06, 13-03.1-07, 13-03.1-15, and 13-03.1-18 of the North Dakota Century Code, relating to the financial institutions regulatory fund, the administration and scope of the Consumer Finance Act, application and fees of consumer finance licensees, requirements for the issuance of consumer finance licenses, continuing license fees, consumer finance lending limitations, and setting penalties for legal violations; and to repeal chapter 13-03 of the North Dakota Century Code, relating to the licensing of small loan companies; and to provide a penalty.

MOTION

SEN. ANDRIST MOVED that Engrossed HB 1156 be amended as follows, which motion prevailed on a voice vote.

Page 3, line 29, replace "chapter" with "section"

Renumber accordingly

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 48 YEAS, 0 NAYS, 0 EXCUSED, 1 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.; 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: Nothing

Engrossed HB 1156, as amended, passed and the title was agreed to.

SECOND READING OF HOUSE BILL

HB 1172: A BILL for an Act to amend and reenact subsections 3 and 4 of section 20.1-03-11 of the North Dakota Century Code, relating to gratis and preferential landowner licenses to hunt deer.

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 38 YEAS, 10 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Andrist; Bowman; Christmann; Cook; DeMers; Fischer; Freborg; Goetz; Grindberg; Holmberg; Kinnoin; Klein; Krauter; Krebsbach; Kringstad; LaFountain; Lee; Lips; Mutch; Naaden; Nalewaja; Nelson, C.; Nelson, G.; Sand; Schobinger; Solberg; St. Aubyn; Stenehjem, B.; Stenehjem, W.; Tallackson; Thompson; Tomac; Traynor; Urlacher; Wanzek; Watne; Wogsland; Yockim

NAYS: Berg; Heitkamp; Kelsh; Lindaas; Mathern; Mutzenberger; O'Connell; Redlin; Robinson; Thane

ABSENT AND NOT VOTING: Nothing

Engrossed HB 1172 passed and the title was agreed to.

SECOND READING OF HOUSE BILL

HB 1177: A BILL for an Act to create and enact a new section to chapter 24-01 of the North Dakota Century Code, relating to no-mow agreements by the department of transportation.

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 42 YEAS, 6 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

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

NAYS: DeMers; Heitkamp; Lips; Redlin; Robinson; Traynor

ABSENT AND NOT VOTING: Nothing

HB 1177 passed and the title was agreed to.

SECOND READING OF HOUSE BILL

HB 1181: A BILL for an Act to create and enact a new section to chapter 51-07 of the North Dakota Century Code, relating to security deposits for motor vehicle fuel franchise agreements.

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; 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.; 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: Nothing

HB 1181 passed and the title was agreed to.

SECOND READING OF HOUSE BILL

HB 1196: A BILL for an Act to amend and reenact section 20.1-08-04.5 of the North Dakota Century Code, relating to hunting deer with muzzleloading firearms.

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 41 YEAS, 7 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

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

NAYS: Christmann; Freborg; LaFountain; Lee; O'Connell; Robinson; Urlacher

ABSENT AND NOT VOTING: Nothing

Engrossed HB 1196 passed and the title was agreed to.

MOTION

SEN. O'CONNELL MOVED that the Senate reconsider its action whereby Engrossed HB 1095 failed to pass, which motion prevailed on a verification vote.

SECOND READING OF HOUSE BILL

HB 1095: A BILL for an Act to amend and reenact subsections 1 and 4 of section 39-10-46 and sections 39-21-18 and 39-21-27 of the North Dakota Century Code, relating to schoolbus strobe lights.

ROLL CALL

The question being on the final passage of the bill, which has been read, the roll was called and there were 26 YEAS, 22 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Berg; DeMers; Freborg; Goetz; Grindberg; Heitkamp; Holmberg; Kelsh; Kinnoin; Krauter; LaFountain; Lee; Lindaas; Lips; Mathern; Mutzenberger; Nalewaja; Nelson, C.; Redlin; Robinson; Tallackson; Thane; Tomac; Watne; Wogsland; Yockim

NAYS: Andrist; Bowman; Christmann; Cook; Fischer; Klein; Krebsbach; Kringstad; Mutch; Naaden; Nelson, G.; O'Connell; Sand; Schobinger; Solberg; St. Aubyn; Stenehjem, B.; Stenehjem, W.; Thompson; Traynor; Urlacher; Wanzek

ABSENT AND NOT VOTING: Nothing

Engrossed HB 1095 passed and the title was agreed to.

MOTION

SEN. GOETZ MOVED that HCR 3016 be returned to the Senate floor from the **Natural Resources Committee** and be rereferred to the **Judiciary Committee**, which motion prevailed. Pursuant to Sen. Goetz's motion, HCR 3016 was rereferred.

MOTION

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

MOTION

SEN. GOETZ MOVED that the Senate be on the Fifth and Sixteenth orders of business and at the conclusion of those orders, the Senate stand adjourned until 1:00 p.m., Wednesday, March 12, 1997, which motion prevailed.

REPORT OF STANDING COMMITTEE

HB 1039, as engrossed: Human Services Committee (Sen. Thane, Chairman) recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (5 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). Engrossed HB 1039 was rereferred to the **Appropriations Committee**.

REPORT OF STANDING COMMITTEE

HB 1064: Judiciary Committee (Sen. W. Stenehjem, Chairman) recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1064 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1145, as engrossed: Judiciary Committee (Sen. W. Stenehjem, Chairman) recommends **DO NOT PASS** (6 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). Engrossed HB 1145 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1275: Judiciary Committee (Sen. W. Stenehjem, Chairman) recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1275 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1286: Finance and Taxation Committee (Sen. Urlacher, Chairman) recommends **DO PASS** (5 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). HB 1286 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1311: Finance and Taxation Committee (Sen. Urlacher, Chairman) recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1311 was rereferred to the **Appropriations Committee**.

REPORT OF STANDING COMMITTEE

HB 1471, as engrossed: Finance and Taxation Committee (Sen. Urlacher, Chairman) recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1471 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1476, as engrossed: Education Committee (Sen. Freborg, Chairman) recommends **DO NOT PASS** (6 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). Engrossed HB 1476 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HCR 3001: Judiciary Committee (Sen. W. Stenehjem, Chairman) recommends **DO PASS** and **BE PLACED ON THE CONSENT CALENDAR** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HCR 3001 was placed on the Tenth order on the calendar.

REPORT OF STANDING COMMITTEE

HCR 3044: Education Committee (Sen. Freborg, Chairman) recommends **DO PASS** and **BE PLACED ON THE CONSENT CALENDAR** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HCR 3044 was placed on the Tenth order on the calendar.

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

William C. Parker, Secretary