

JOURNAL OF THE SENATE - SPECIAL SESSION

Fifty-eighth Legislative Assembly

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Bismarck, May 5, 2003

The Senate convened at 9:00 a.m., with President Dalrymple presiding.

The prayer was offered by Senator Lindaas.

COMMUNICATION FROM SECRETARY OF STATE ALVIN A. JAEGER

May 5, 2003

I hereby certify that I have attached a true and correct copy of Executive Order 2003-02.1, executed by Governor John Hoeven on April 29, 2003, in which he convenes the North Dakota Legislative Assembly into special session on Monday, May 5, 2003 at 9:00 a.m.

In addition, I have attached a true and correct listing of Senators who were issued Certificates of Election by the State Canvassing Board and who continue to serve, as of this date, in the respective legislative district to which they were elected.

IN TESTIMONY WHEREOF, I have set my hand and affixed the Great Seal of the State of North Dakota at the Capitol in the City of Bismarck on this date.

**58th Legislative Assembly
Members of the North Dakota Senate
May 5, 2003**

<u>SENATOR</u>	<u>LEGISLATIVE DISTRICT</u>
Stanley W. Lyson	1
John M. Andrist	2
Randy A. Schobinger	3
Ronald Nichols	4
Tom Seymour	5
David O'Connell	6
Ryan M. Taylor	7
Layton Freborg	8
Dennis Bercier	9
Tom Trenbeath	10
Tim Mathern	11
Dave Nething	12
Judy Lee	13
Jerry Klein	14
John T. "Jack" Traynor	15
Harvey Tallackson	16
Ray Holmberg	17
Linda Christenson	18
Duane Mutch	19
Elroy N. Lindaas	20
Carolyn Nelson	21
Gary A. Lee	22
Mike Every	23
Larry J. Robinson	24
Russell T. Thane	25
Joel C. Heitkamp	26
Richard (Dick) Brown	27
Robert S. Erbele	28
April Fairfield	29
Bob Stenehjem	30
Aaron Krauter	31
Dick Dever	32
Randel (Randy) Christmann	33
Dwight Cook	34
Ed Kringstad	35
Herb Urlacher	36
Rich Wardner	37
Ben Tollefson	38
Bill L. Bowman	39
Karen K. Krebsbach	40

Tony Grindberg	41
Michael Polovitz	42
Duaine C. Espegard	43
Tim Flakoll	44
John Syverson	45
Thomas Fischer	46
Ralph Kilzer	47

The roll was called and all members were present except Senators Bercier, Grindberg, Nelson, and Tallackson.

A quorum was declared by the President.

**EXECUTIVE ORDER 2003-02
(SPECIAL SESSION)
REVISED**

I, Jon Hoeven, Governor of the State of North Dakota by the authority vested in me, called the the North Dakota Legislative Assembly into special session which was to begin on Wednesday, April 30, 2003 at 9:00 a.m., in the Legislative Chambers, at Bismarck, North Dakota or at such time as may be provided by subsequent order.

At the request of Legislative Leadership and to accommodate legislator's schedules, the special session shall begin on **Monday, May 5, 2003 at 9:00 a.m.**

This Executive Order, calling the Legislative Assembly into special session is issued pursuant to Article V, sections 1 and 7 of the North Dakota Constitution and for the following reasons:

1. To address education funding, not fully addressed in Senate Bill 2154;
2. To address Information Technology Department funding and related policy issues contained in House Bill 1022; and
3. To address Department of Corrections and Rehabilitation funding not fully addressed in House Bill 1016.

Each of the aforementioned bills have been vetoed pursuant to Article V, section 9 of the North Dakota Constitution.

Executed at Bismarck, North Dakota this 29th day of April, 2003.

MOTION

SEN. CHRISTMANN MOVED that the Senate stand in recess until 11:00 a.m., which motion prevailed.

THE SENATE RECONVENED pursuant to recess taken, with President Dalrymple presiding.

REPORT OF PROCEDURAL COMMITTEE

MR. PRESIDENT Your procedural **Employment Committee (Sen. Kringstad, Chairman)** recommends the following Senate employees for the Special Session of the Fifty-eighth Legislative Assembly:

Tim Wood	Secretary of the Senate
Karen Hoovestol	Journal Reporter
Mel Beckler	Sergeant-at-Arms
Renae Doan	Administrative Assistant to the Majority Leader
Kathy Wachter	Administrative Assistant to the Minority Leader
DeAnn Bjornson	Staff Assistant to the Majority Leader
Natalie Lindquist	Staff Assistant to the Minority Leader
Sandra Davison	Appropriations Committee Clerk
Mary Kay Walery	Committee Clerk

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

REPORT OF PROCEDURAL COMMITTEE

MR. PRESIDENT: Your procedural **Rules Committee (Sen. Holmberg, Chairman)** recommends that the Senate and Joint Rules of the 58th Legislative Assembly, as adopted on Wednesday, December 4, 2002, be amended as follows for the extraordinary session of the 58th Legislative Assembly:

SECTION 1. AMENDMENT. Subsection 4 of Senate Rule 318 is amended as follows:

4. The following questions require a two-thirds vote of the members-elect of the Senate:
 - a. Initiated and referred measures amended or repealed within seven years after enactment or approval, as provided in Section 8, Article III, of the Constitution and Senate Rule 339.
 - b. Emergency clauses, as provided in Section 13, Article IV, of the Constitution.
 - c. Vetoed measures, reconsideration, as provided in Section 9, Article V, of the Constitution.
 - d. Adoption of propositions of a divided question if the division would require a two-thirds vote of the members-elect, as provided in Senate Rule 319.
 - e. To recede before a conference in a case where two-thirds governs, as provided in Joint Rule 202.
 - f. ~~Second reading same day as report, as provided in Senate Rule 337.~~
 - g. Reconsideration after the next legislative day or after a previous motion to reconsider, as provided in Senate Rule 347.
 - h. ~~g.~~ Reconsideration after a clincher motion, as provided in Senate Rule 348.
 - i. ~~h.~~ Suspension of requirement that copies of amendments be distributed before acted on, as provided in Senate Rule 601.
 - j. ~~i.~~ Amendment, reconsideration, or suspension of a joint rule, as provided in Joint Rule 105.

SECTION 2. AMENDMENT. Senate Rule 337 is amended as follows:

337. SECOND READING. No bill requiring the approval of the Governor, no resolution proposing a change in the Constitution of North Dakota, and no resolution ratifying an amendment to the Constitution of the United States may be referred, except in the case of a bill or resolution that is prefiled pursuant to Senate Rule 401, or amended until it has been read; nor may any such bill or resolution have its second reading and final passage until at least one day after it has been reported to the Senate by the committee to which it was referred, provided that any such bill or resolution may have its second reading and final passage on the same day it is reported back when so ordered by two thirds of the members-elect of the Senate its first reading.

SECTION 3. AMENDMENT. Senate Rule 346 is amended as follows:

346. TRANSMITTAL OF MEASURE TO HOUSE - NOTICE OF INTENTION TO RECONSIDER. After the second reading of a bill or resolution, the Secretary of the Senate shall retain the bill or resolution until the end of the next legislative day, unless the bill or resolution has previously been disposed of. ~~On the thirty fourth legislative day and after the forty ninth legislative day, the Secretary of the Senate shall transmit the bill or resolution to the House immediately upon adjournment of that day's session unless action on the bill or resolution is pending as the result of the Senate passing a motion to reconsider or unless the Majority or Minority Leader has given notice of intention to move the reconsideration of that bill or resolution. After the fifty eighth legislative day, the Secretary of the Senate shall transmit the bill or resolution to the House immediately after the second reading of the bill or resolution unless the Majority or Minority Leader has given notice of intention to move the reconsideration of that bill or resolution. When a member in explaining the member's vote states to the Senate that the member's vote is for the purpose of reconsideration, that statement also is notice of such intention. If notice of intention to move reconsideration is given, the Secretary of the Senate shall retain the bill or resolution until adjournment of that day's session.~~

SECTION 4. AMENDMENT. Subsection 1 of Senate Rule 401 is amended as follows:

1. Any bill or resolution that conforms to statutory requirements and these rules; ~~within the number and time prescribed,~~ may be introduced by any member, standing committee, or the Legislative Council, by filing the bill or resolution with the Secretary, who shall number consecutively each bill or resolution.

SECTION 5. AMENDMENT. Subsections 1 and 2 of Senate Rule 402 are amended as follows:

1. ~~No member other than the Majority and Minority Leaders may introduce more than three bills as prime sponsor after the tenth legislative day. No bill may be introduced after the fifteenth legislative day, and no resolution, except those resolutions described in subsection 3, may be introduced after the eighteenth legislative day, except upon approval of a majority of the Delayed Bills Committee or upon two-thirds vote of the members of the Senate present and voting.~~
2. No bill introduced at the request of an executive agency or the Supreme Court may be introduced ~~after the close of business on the day after the adjournment of the organizational session,~~ except upon approval of a majority of the Delayed Bills Committee.

SECTION 6. AMENDMENT. Senate Rule 403 is amended as follows:

403. DELAYED BILLS AND RESOLUTIONS. The Delayed Bills Committee shall receive from the Secretary every bill and resolution offered for introduction ~~after the time for introduction as limited by Senate Rule 402,~~ and, on the same or the next legislative day after receiving the measure, shall inform the Senate whether the introduction of the measure has been approved. If a majority of the committee favors introduction, the sponsor may introduce the measure. Each measure approved for introduction must bear the name or names of the sponsor or sponsors and must note the approval of the Delayed Bills Committee.

SECTION 7. AMENDMENT. Senate Rule 504 is amended as follows:

504. COMMITTEE MEETINGS.

1. ~~The Appropriations Committee meets on Monday, Tuesday, Wednesday, Thursday, and Friday of each week.~~
2. ~~The three day committees meet on Monday, Tuesday, and Wednesday of each week.~~
3. ~~The two day committees meet on Thursday and Friday of each week.~~
4. ~~Any committee that meets on Wednesday and which has a member who is also a member of the Joint Constitutional Revision Committee may not take any substantive action during the time the Joint Constitutional Revision Committee meets.~~
5. The chairman of any committee, or a majority of that committee, may call meetings at times and on ~~other~~ days as deemed necessary.

SECTION 8. AMENDMENT. Senate Rule 601 is amended as follows:

601. REPORT OF COMMITTEES.

1. The report of a committee must provide for one or more of the following recommendations with respect to the bill or resolution: do pass, do not pass, be amended, be rereferred to another committee, or be placed on the calendar without recommendation.
2. During the fifth order of business, the Secretary shall announce that committee reports have been received, if such is the case, and shall list the bill or resolution number, or other identifier, and state the accompanying committee recommendation. If the committee report is divided pursuant to Senate Rule 602, the Secretary shall announce the majority and minority report, or reports, as well.
3.
 - a. If the committee report is for amendment, the proposed amendment must be placed on the calendar ~~for the next legislative day on the sixth order of business. After the fifty fifth legislative day, the proposed amendment must be placed on the calendar~~ on the sixth order of business immediately after the report of the committee is received.
 - b. No action may be taken on an amendment until a verbatim copy of the amendment has been distributed to each member; provided, that on a two-thirds vote of the members-elect, this may be suspended, and the amendment acted on immediately after the report of the committee.

- c. If the amendment is adopted by a majority vote of the members present, the amended measure must then be placed on the calendar ~~for the next legislative day~~ under the applicable order of business for second reading and final passage except as provided in subdivision e ~~or g~~.
 - d. If the amendment is rejected, the measure without amendment must be placed on the calendar ~~for the next legislative day~~ under the applicable order of business for second reading and final passage except as provided in subdivision e ~~or g~~.
 - e. If the committee report is for amendment and then rereferral to another committee, the measure must be rereferred to the appropriate committee after adoption or rejection of the amendment. If, after adoption or rejection of the amendment, a measure is subject to rereferral under Senate Rule 329, the measure must be rereferred to the Appropriations Committee, regardless of whether the report provides for rereferral.
 - f. If the committee report does not recommend rereferral to another committee but recommends that the measure pass, do not pass, or makes no recommendation, the measure must be placed on the calendar ~~for the next legislative day~~ under the applicable order of business for second reading and final passage ~~except as provided in subdivision g~~.
 - g. ~~On motion~~ Except as provided under subdivision e, a measure must be placed on the calendar for second reading and final passage immediately after action is taken on the amendment. ~~If the committee report recommends that the measure be placed on the calendar for second reading and final passage immediately after action is taken on the amendment, the measure must be placed on the calendar for second reading and final passage immediately after the amendment is adopted. After the thirty second legislative day all Senate bills, and after the fifty fifth legislative day all measures, must be placed on the calendar for second reading and final passage immediately after action is taken on the amendment. A measure placed on the calendar under this subdivision may be acted on immediately after placement on the calendar.~~
 - h. A report for amendment must be approved as to form and style by the Legislative Council staff. When a report for amendment is received by the Secretary without a notation that the report was approved as to form and style by the Legislative Council staff, the Secretary immediately shall cause that report to be delivered to the Legislative Council office with a request that the report be examined and receive a notation approving its form and style.
4. If the committee report is divided as provided in Senate Rule 602, the reports must be placed on the calendar ~~for the next legislative day~~ on the seventh order of business. The President shall receive and announce a motion that the report of the minority be substituted for the majority committee report. If the minority report is adopted, that report is substituted for the majority report and must be placed on the calendar on the eleventh or fourteenth order of business. If the minority report is not adopted, the majority report is deemed adopted and must be placed on the calendar on the eleventh or fourteenth order of business. If a "do not pass" report is adopted under this subsection, the measure must be placed on the calendar on the eleventh or fourteenth order of business. If no report is adopted under this subsection, the measure must be placed on the calendar on the eleventh or fourteenth order of business unless the measure is subject to rereferral under Senate Rule 329.
 5. ~~The~~ If practicable, the Secretary shall ensure that the daily calendar contains appropriate notation of committee reports.

SECTION 9. AMENDMENT. Joint Rule 202 is amended as follows:

202. RECEDING BEFORE CONFERENCE. Either house may recede from any subject matter of difference existing between the two houses at any time before a conference whether the papers on which difference has arisen are before the house receding formally or informally, and a majority of the members-elect governs, except in a case where two-thirds of the members-elect is required by the Constitution, and the question having been put and lost, may ~~not~~ be again put the same day, and the consideration thereof in other respects is regulated by the rules of the respective houses.

SECTION 10. AMENDMENT. Joint Rule 207 is amended as follows:

207. CONSIDERATION OF ITEMS ON CONSENT CALENDAR.

1. ~~No item on the consent calendar may be considered for adoption on the same legislative day it is placed on the consent calendar.~~
2. Bills or resolutions on the consent calendar are not debatable, except that the President of the Senate or the Speaker of the House shall allow a reasonable time for questions from the floor and shall permit the proponents of the bills or resolutions to answer the questions.
3. ~~2.~~ The question of the final passage of more than one item contained on the consent calendar may be voted on in a single vote if the vote is on either bills or resolutions and not on any combination thereof in the same vote.
4. ~~3.~~ Immediately before voting on the first consent calendar bills or resolutions, the President of the Senate or the Speaker of the House shall call to the attention of the members the fact that the next vote will be the vote on the bills or resolutions on the consent calendar. A recorded roll call vote is necessary on items on the consent calendar only if a recorded roll call vote is required under Senate or House Rule 340.

SECTION 11. AMENDMENT. Joint Rule 208 is amended as follows:

208. INTRODUCTION OF EXECUTIVE AGENCY AND SUPREME COURT BILLS.

Each executive agency and the Supreme Court shall file with the Legislative Council those bills they wish to have introduced ~~no later than the close of business on the day after the adjournment of the organizational session. Each.~~ Upon approval by the appropriate Delayed Bills Committee, each bill is deemed introduced by the standing committee of the House or Senate with general jurisdiction over the subject matter of the bill; but if the filing entity receives the approval of a legislator to sponsor the bill, that bill is to be introduced by the legislator rather than by the standing committee. A bill sponsored by a legislator may not have more sponsors than the number allowed under Senate and House Rules 401. The director of the budget shall file with the Legislative Council those bills making appropriations to implement the budget recommended by the Governor no later than the close of business on the day after the adjournment of the organizational session and those bills are deemed introduced by the Appropriations Committee of the Senate or House at the request of the Governor. The bill implementing the budget request of the judicial branch is deemed introduced by the Appropriations Committee of the Senate or House at the request of the Supreme Court, and the bill implementing the budget request of the legislative branch is deemed introduced by the Appropriations Committee of the Senate or House at the request of the Legislative Council. The Legislative Council shall number and deliver bills filed under this rule to the appropriate house for recording. Each bill introduced under this rule must be identified by noting the name of the agency or the court under the name of the sponsoring committee or legislator. The identification of a bill introduced by a standing committee may include the names of not more than five entities authorized to file bills under this rule.

SECTION 12. AMENDMENT. Subsection 4 of Joint Rule 501 is amended as follows:

4. a. The agency or department preparing the fiscal note shall return the fiscal note along with the number of copies requested by the Legislative Council to the Legislative Council not later than ~~five days~~ one day from the date of the request.
- b. The Legislative Council shall retain three copies, shall provide one copy to the Office of Management and Budget, shall provide one copy to the Governor, and shall deliver the remaining copies to the Secretary of the Senate or the Chief Clerk of the House. Of those copies, one copy must be attached to the original bill or resolution, one copy must be filed with the Bill Clerk of the house wherein the bill or resolution originated, one copy must be provided to the President of the Senate, one copy must be provided to the Speaker of the House, and the remaining copies must be distributed as directed by the Secretary of the Senate or the Chief Clerk of the House, as appropriate.

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

MOTION

SEN. CHRISTMANN MOVED that the Senate stand in recess until 1:00 p.m., which motion prevailed.

THE SENATE RECONVENED pursuant to recess taken, with President Dalrymple presiding.

REPORT OF DELAYED BILLS COMMITTEE

MR. PRESIDENT: Your **Delayed Bills Committee (Sen. Cook, Chairman)** has cast a vote of 3 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING in favor of accepting the introduction of a bill for an Act to create and enact four new sections to chapter 15.1-07, a new section to chapter 15.1-12, and a new section to chapter 15.1-27 of the North Dakota Century Code, relating to school district plans, reorganizations, ending balances, and joint powers agreements; to amend and reenact subsection 5 of section 15.1-09-36, section 15.1-21-02, subsection 6 of section 15.1-27-01, sections 15.1-27-04, 15.1-27-05, 15.1-27-06, and 15.1-27-07, subsection 1 of section 15.1-27-10, section 15.1-27-11, subsection 4 of section 15.1-27-19, subsection 4 of section 15.1-27-21, sections 15.1-27-34, 15.1-27-37, 15.1-27-39, and 15.1-29-01, subsection 4 of section 15.1-29-06, sections 15.1-29-13 and 15.1-29-14, subsection 1 of section 15.1-30-01, section 15.1-30-05, subsection 2 of section 15.1-30-15, and sections 15.1-31-05, 15.1-31-06, and 15.1-32-16 of the North Dakota Century Code, relating to per student payments, weighting factors, transportation aid, teacher compensation, teacher compensation reimbursement, and high school units; to repeal sections 15.1-27-26, 15.1-27-27, 15.1-27-28, 15.1-27-29, 15.1-27-30, and 15.1-27-31 of the North Dakota Century Code, relating to state transportation aid payments; to provide for the distribution of transportation grants; to provide for a legislative council study; to provide for data envelopment analysis completion; to provide for No Child Left Behind Act of 2001 cost estimates; to provide for teacher compensation efforts; to provide for contingent payments; to provide an appropriation; and to provide an effective date.

The bill will be SB 2421.

REPORT OF DELAYED BILLS COMMITTEE

MR. PRESIDENT: Your **Delayed Bills Committee (Sen. Cook, Chairman)** has cast a vote of 5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING in favor of accepting the introduction of a bill for an Act to create and enact a new section to chapter 54-16 of the North Dakota Century Code, relating to the presentation of emergency request petitions to the emergency commission; to amend and reenact subsection 1 of section 54-16-00.1 and sections 54-16-03, 54-16-04, 54-16-04.1, 54-16-04.2, 54-16-09, and 54-16-11.1 of the North Dakota Century Code, relating to procedures employed by the emergency commission and approvals by the budget section; to repeal sections 54-16-10 and 54-16-11 of the North Dakota Century Code, relating to departmental emergency funds; and to provide an effective date.

The bill will be SB 2422.

REPORT OF DELAYED BILLS COMMITTEE

MR. PRESIDENT: Your **Delayed Bills Committee (Sen. Cook, Chairman)** has cast a vote of 5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING in favor of accepting the introduction of a bill for an Act to provide legislative intent regarding state employee reductions; to provide for a report to the budget section; to provide for state employee compensation increases; and to provide an effective date.

The bill will be SB 2423.

MOTION

SEN. CHRISTMANN MOVED that the Senate stand in recess until 4:00 p.m., which motion prevailed.

THE SENATE RECONVENED pursuant to recess taken, with President Dalrymple presiding.

REQUEST

SEN. GRINDBERG REQUESTED that the record reflect he was present today, which request was granted.

REQUEST

SEN. O'CONNELL REQUESTED that the record reflect that Sen. Bercier was present today, which request was granted.

MOTION

SEN. CHRISTMANN MOVED that the Senate be on the Fifth, Ninth, and Fifteenth orders of business and at the conclusion of those orders, the Senate stand adjourned until 9:00 a.m., Tuesday, May 6, 2003, which motion prevailed.

FIRST READING OF SENATE BILLS

Education Committee introduced:

SB 2421: A BILL for an Act to create and enact four new sections to chapter 15.1-07, a new section to chapter 15.1-12, and a new section to chapter 15.1-27 of the North Dakota Century Code, relating to school district plans, reorganizations, ending balances, and joint powers agreements; to amend and reenact subsection 5 of section 15.1-09-36, section 15.1-21-02, subsection 6 of section 15.1-27-01, sections 15.1-27-04, 15.1-27-05, 15.1-27-06, and 15.1-27-07, subsection 1 of section 15.1-27-10, section 15.1-27-11, subsection 4 of section 15.1-27-19, subsection 4 of section 15.1-27-21, sections 15.1-27-34, 15.1-27-37, 15.1-27-39, and 15.1-29-01, subsection 4 of section 15.1-29-06, sections 15.1-29-13 and 15.1-29-14, subsection 1 of section 15.1-30-01, section 15.1-30-05, subsection 2 of section 15.1-30-15, and sections 15.1-31-05, 15.1-31-06, and 15.1-32-16 of the North Dakota Century Code, relating to per student payments, weighting factors, transportation aid, teacher compensation, teacher compensation reimbursement, and high school units; to repeal sections 15.1-27-26, 15.1-27-27, 15.1-27-28, 15.1-27-29, 15.1-27-30, and 15.1-27-31 of the North Dakota Century Code, relating to state transportation aid payments; to provide for the distribution of transportation grants; to provide for a legislative council study; to provide for data envelopment analysis completion; to provide for No Child Left Behind Act of 2001 cost estimates; to provide for teacher compensation efforts; to provide for contingent payments; to provide an appropriation; and to provide an effective date.

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

Sen. Stenehjem and Rep. Berg introduced:

(Approved by the Delayed Bills Committee)

SB 2422: A BILL for an Act to create and enact a new section to chapter 54-16 of the North Dakota Century Code, relating to the presentation of emergency request petitions to the emergency commission; to amend and reenact subsection 1 of section 54-16-00.1 and sections 54-16-03, 54-16-04, 54-16-04.1, 54-16-04.2, 54-16-09, and 54-16-11.1 of the North Dakota Century Code, relating to procedures employed by the emergency commission and approvals by the budget section; to repeal sections 54-16-10 and 54-16-11 of the North Dakota Century Code, relating to departmental emergency funds; and to provide an effective date.

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

Sen. Stenehjem and Rep. Berg introduced:

(Approved by the Delayed Bills Committee)

SB 2423: A BILL for an Act to provide legislative intent regarding state employee reductions; to provide for a report to the budget section; to provide for state employee compensation increases; and to provide an effective date.

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

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

TIMOTHY W. WOOD, Secretary