

JOURNAL OF THE SENATE

Fifty-eighth Legislative Assembly

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Bismarck, February 28, 2003

The Senate convened at 12:30 p.m., with President Dalrymple presiding.

The prayer was offered by Reverend Dale V. Nabben, Missouri Slope Lutheran Care Center, Bismarck.

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

A quorum was declared by the President.

CONSIDERATION OF AMENDMENTS

HB 1070: SEN. TRENBEATH (Judiciary Committee) MOVED that the amendments on SJ pages 615-616 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

CONSIDERATION OF AMENDMENTS

HB 1108: SEN. NICHOLS (Finance and Taxation Committee) MOVED that the amendments on SJ page 616 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

CORRECTION AND REVISION OF THE JOURNAL

MR. PRESIDENT: Your **Committee on Correction and Revision of the Journal (Sen. Espegard, Chairman)** has carefully examined the Journal of the Thirty-fourth Day and recommends that it be corrected as follows and when so corrected, recommends that it be approved:

Page 598, remove lines 55 through 58

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

SECOND READING OF SENATE BILL

SB 2419: A BILL for an Act to amend and reenact subsection 5 of section 61-28-02, subsections 1 and 3 of section 61-28-06, section 61-28-07, and subsection 5 of section 61-28-08 of the North Dakota Century Code, relating to penalties for violating injunctive orders preventing Clean Water Act violations, to clarify the state's authority to seek injunctive relief against governmental entities that violate water quality standards of the state, and authority of the state to protect water quality from degradation; to provide a penalty; 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 47 YEAS, 0 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

YEAS: Andrist; Bercier; Bowman; Brown; Christenson; Christmann; Cook; Dever; Erbele; Espegard; Every; Fairfield; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Mutch; Nelson; Nething; Nichols; O'Connell; Polovitz; Robinson; Schobinger; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

SB 2419 passed, the title was agreed to, and the emergency clause was declared carried.

MOTION

SEN. STENEHJEM MOVED that the remarks of Senator Trenbeath be printed in the Journal, which motion prevailed.

REMARKS OF SENATOR TRENBEATH REGARDING EVERETT C. ALBERS

I rise this afternoon to acquaint this body with a great North Dakotan and a fine human being: Everett C. Albers, known to those of us who are more than casual acquaintances as "Ev".

Thirty years ago, on the advent of the National Endowment for the Humanities, the North Dakota Humanities Council was formed as a partner of the Endowment. Its first executive director was Ev Albers. Now, on the thirtieth anniversary of the organization, Ev remain at its helm, the longest serving executive director in the United States. Although 30 years on the job, Ev has never allowed the Humanities Council to stagnate or rust, gathering neither moss nor barnacle. It remains committed to bringing the humanities to the citizens of North Dakota - whether it be through lectures by Larry Remele Memorial Fellows, humanities programming grants in small towns, Smithsonian Institution Museum on Main Street (MOMS) travelling exhibits, or engaging groups throughout the state in a National Conversation about who we, as the upstart democracy of the world, started out to be and have become.

Certainly Ev has been the prime mover in all these areas and so many more. On a national scale, also, Ev is recognized for his outstanding service to the humanities. He is the father of the modern Great Plains Chautauqua, a revival of the nineteenth century tented, travelling oratorical events involving humanities scholars from throughout the plains states, appearing in the character of historical figures; allowing, for instance, the oration of and later discussion with Andrew Carnegie or Theodore Roosevelt.

Above all else, Ev has spent thirty years being an unassuming, unabrasive, tactful consensus builder; always shunning credit in favor of another in order to accomplish the goal. After all, he works with 15 people, all volunteers, from every part of the state - Kindred to Noonan; Cavalier to Dickinson. From University professor to grade school teacher; organic farmer to recovering attorney; flaming liberal to icy conservative. I can think of no more diverse or challenging group from which to squeeze consensus. Yet Ev Albers makes us one.

Ev, as you might imagine, is a voracious reader and probably his favorite poet is Thomas McGarth, whom Everett refers to as "North Dakota's Gift to the Millennia". As such I will close with the McGrath lines with which Ev has closed all of his recent correspondence:

How could I have come so far?
 (And always on such dark trails!)
 I must have travelled by the light
 Shining from the faces of all those I have loved.

Ladies and gentlemen of the Senate, please join the North Dakota Humanities Council, as it celebrates its Thirtieth Anniversary, by honoring Everett C. Albers with your Congratulatory Resolution.

SECOND READING OF SENATE RESOLUTION

SR 6001: A resolution honoring Mr. Everett C. Albers for his unswerving devotion to bringing the humanities to the people of this state.

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

SR 6001 was declared adopted, and the title was agreed to on a voice vote.

MOTION

SEN. CHRISTMANN MOVED that HB 1046, which is on the Fourteenth order, be laid over one legislative day, which motion prevailed.

SECOND READING OF HOUSE BILL

HB 1059: A BILL for an Act to amend and reenact section 1-08-09 of the North Dakota Century Code, relating to the service of process on election day.

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 47 YEAS, 0 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

YEAS: Andrist; Bercier; Bowman; Brown; Christenson; Christmann; Cook; Dever; Erbele; Espegard; Every; Fairfield; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Mutch; Nelson; Nething; Nichols; O'Connell; Polovitz; Robinson; Schobinger; Seymour; Stenehjerm; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

Engrossed HB 1059 passed and the title was agreed to.

SECOND READING OF HOUSE BILL

HB 1122: A BILL for an Act to create and enact a new section to chapter 20.1-08 of the North Dakota Century Code, relating to establishing a mule deer license raffle and auction.

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 47 YEAS, 0 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

YEAS: Andrist; Bercier; Bowman; Brown; Christenson; Christmann; Cook; Dever; Erbele; Espegard; Every; Fairfield; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Mutch; Nelson; Nething; Nichols; O'Connell; Polovitz; Robinson; Schobinger; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

Engrossed HB 1122 passed and the title was agreed to.

SECOND READING OF HOUSE BILL

HB 1228: A BILL for an Act to amend and reenact sections 25-03.2-03.1 and 50-11-02.3 of the North Dakota Century Code, relating to continuing a moratorium on the expansion of residential treatment center for children and residential child care facility or group home bed capacity; to provide an expiration date; 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 47 YEAS, 0 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

YEAS: Andrist; Bercier; Bowman; Brown; Christenson; Christmann; Cook; Dever; Erbele; Espegard; Every; Fairfield; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Mutch; Nelson; Nething; Nichols; O'Connell; Polovitz; Robinson; Schobinger; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

Engrossed HB 1228 passed, the title was agreed to, and the emergency clause was declared carried.

SECOND READING OF HOUSE BILL

HB 1328: A BILL for an Act to create and enact a new subsection to section 57-39.2-04 and a new subsection to section 57-40.3-04 of the North Dakota Century Code, relating to a sales, use, and motor vehicle excise tax exemption for the acquisition by a charitable organization of property to be awarded as a raffle prize; and to provide an effective date.

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 39 YEAS, 8 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

YEAS: Andrist; Bercier; Brown; Christenson; Christmann; Cook; Dever; Erbele; Every; Fairfield; Fischer; Freborg; Grindberg; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Mathern; Mutch; Nelson; Nething; Nichols; O'Connell; Polovitz; Robinson; Schobinger; Seymour; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Urlacher; Wardner

NAYS: Bowman; Espegard; Flakoll; Lee, J.; Lindaas; Lyson; Stenehjem; Trenbeath

Engrossed HB 1328 passed and the title was agreed to.

SECOND READING OF HOUSE BILL

HB 1130: A BILL for an Act to amend and reenact section 36-24-10 of the North Dakota Century Code, relating to custom processing of meat products; 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 46 YEAS, 0 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Andrist; Bercier; Bowman; Brown; Christenson; Christmann; Cook; Dever; Erbele; Espgaard; Every; Fairfield; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Mutch; Nelson; Nething; Nichols; O'Connell; Polovitz; Robinson; Schobinger; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

ABSENT AND NOT VOTING: Holmberg

HB 1130 passed, the title was agreed to, and the emergency clause was declared carried.

SECOND READING OF HOUSE CONCURRENT RESOLUTION

HCR 3005: A concurrent resolution for the amendment of section 17 of article XI of the Constitution of North Dakota, relating to the organization of the state's military forces; to repeal sections 16, 18, 19, 20, and 21 of article XI of the Constitution of North Dakota, relating to the organization, membership requirements, and appointment of officers of the state's militia and privilege from arrest during periods of military service; and to provide an effective date.

ROLL CALL

The question being on the final adoption of the resolution, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 20 YEAS, 26 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Andrist; Christenson; Every; Fairfield; Grindberg; Heitkamp; Krauter; Krebsbach; Lindaas; Mathern; Nelson; Nichols; O'Connell; Robinson; Seymour; Syverson; Tallackson; Taylor; Traynor; Wardner

NAYS: Bercier; Bowman; Brown; Christmann; Cook; Dever; Erbele; Espgaard; Fischer; Flakoll; Freborg; Kilzer; Klein; Kringstad; Lee, G.; Lee, J.; Lyson; Mutch; Nething; Polovitz; Schobinger; Stenehjem; Thane; Tollefson; Trenbeath; Urlacher

ABSENT AND NOT VOTING: Holmberg

HCR 3005 lost on a roll call vote.

SECOND READING OF HOUSE CONCURRENT RESOLUTION

HCR 3035: A concurrent resolution proclaiming March 16, 2003, as Liberty Day.

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

HCR 3035 was declared adopted, and the title was agreed to on a voice vote.

MESSAGE TO THE SENATE FROM THE HOUSE (BRADLEY C. FAY, CHIEF CLERK)

MR. PRESIDENT: The House has passed unchanged: SB 2034, SB 2047, SB 2091, SB 2098.

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)

MR. SPEAKER: The Senate has passed and your favorable consideration is requested on: SCR 4035.

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)
MR. SPEAKER: The Senate has passed unchanged: HB 1033, HB 1061, HB 1063, HB 1104, HB 1105, HB 1121, HB 1201, HB 1379, HCR 3001.

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)
MR. SPEAKER: The Senate has passed, the emergency clause carried, unchanged: HB 1233.

MOTION

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

MOTION

SEN. CHRISTMANN MOVED that the Senate be on the Fourth, Fifth, Seventh, and Thirteenth orders of business and at the conclusion of those orders, the Senate stand adjourned until 1:00 p.m., Monday, March 3, 2003, which motion prevailed.

REPORT OF STANDING COMMITTEE

SCR 4013: Joint Constitutional Revision Committee (Sen. Tollefson, Chairman) recommends **DO PASS** (9 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SCR 4013 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SCR 4017: Joint Constitutional Revision Committee (Sen. Tollefson, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (6 YEAS, 4 NAYS, 0 ABSENT AND NOT VOTING). SCR 4017 was placed on the Sixth order on the calendar.

Page 1, line 15, overstrike "not prohibited by article XX of the constitution,"

Renumber accordingly

REPORT OF STANDING COMMITTEE

SCR 4033: Transportation Committee (Sen. Trenbeath, Chairman) recommends **DO NOT PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SCR 4033 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1025: Political Subdivisions Committee (Sen. Cook, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1025 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1064, as engrossed: Government and Veterans Affairs Committee (Sen. Krebsbach, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1064 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1118: Agriculture Committee (Sen. Flakoll, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1118 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1134: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1134 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1135, as engrossed: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1135 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1151: Government and Veterans Affairs Committee (Sen. Krebsbach, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1151 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1186, as engrossed: Political Subdivisions Committee (Sen. Cook, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO**

PASS (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1186 was placed on the Sixth order on the calendar.

Page 1, line 5, replace "study" with "consider studying"

Page 1, line 6, after "state" insert "or other political subdivision"

Page 1, line 7, after "state" insert "or other political subdivision"

ReNUMBER accordingly

REPORT OF STANDING COMMITTEE

HB 1216, as engrossed: Natural Resources Committee (Sen. Fischer, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1216 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1230: Government and Veterans Affairs Committee (Sen. Krebsbach, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1230 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1262, as engrossed: Political Subdivisions Committee (Sen. Cook, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1262 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1322: Transportation Committee (Sen. Trenbeath, Chairman) recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1322 was rereferred to the **Appropriations Committee**.

REPORT OF STANDING COMMITTEE

HB 1395: Political Subdivisions Committee (Sen. Cook, Chairman) recommends **DO NOT PASS** (4 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). HB 1395 was placed on the Fourteenth order on the calendar.

FIRST READING OF HOUSE BILL

HB 1503: A BILL for an Act to create and enact a new section to chapter 36-11 of the North Dakota Century Code, relating to livestock; and to amend and reenact sections 36-11-01, 36-11-07, 36-11-09, 36-11-10, 36-11-11, 36-11-12, 36-11-13, 36-11-14, 36-11-15, 36-11-16, 36-11-17, 36-11-18, 36-11-19, and 36-11-20 of the North Dakota Century Code, relating to livestock running at large.
Was read the first time and referred to the **Agriculture Committee**.

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

WILLIAM R. HORTON, Secretary