

JOURNAL OF THE SENATE

Fifty-ninth Legislative Assembly

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Bismarck, March 2, 2005

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

The prayer was offered by Pastor Greg Runyon, Church of Acts, Bismarck.

The roll was called and all members were present.

A quorum was declared by the President.

REMARKS OF MAJORITY LEADER STENEHJEM

Mr. President, I submit the following proclamation:

PROCLAMATION
State of North Dakota
North Dakota Senate

WHEREAS, the citizens of North Dakota stand firmly committed to promoting reading as the catalyst for our students' future academic success, their preparation for America's jobs of the future, and their ability to compete in a global economy; and

WHEREAS, the citizens of North Dakota understand the importance of community involvement in the education of our children and youth and that educational investment is in the best interest of the community's well-being and long-term quality of life; and

WHEREAS, NEA's Read Across America, a national celebration of Dr. Seuss' birthday on March 2, promotes reading and adult involvement in the education of North Dakota's children:

NOW, THEREFORE, THE NORTH DAKOTA SENATE HEREBY PROCLAIMS March 2, 2005, as READ ACROSS NORTH DAKOTA DAY

Because...

You're never too old, too wacky, or too wild
To pick up a book and read to a child!

MOTION

SEN. CHRISTMANN MOVED that the proclamation presented by Majority Leader Stenehjem be printed in the Journal, which motion prevailed.

CONSIDERATION OF AMENDMENTS

SCR 4037: SEN. SYVERSON (Judiciary Committee) MOVED that the amendments on SJ page 677 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

SECOND READING OF SENATE CONCURRENT RESOLUTION

SCR 4035: A concurrent resolution directing the Legislative Council to study mill levy authority for counties to support North Dakota regional planning councils to promote economic development efforts throughout North Dakota.

The question being on the final adoption of the amended resolution, which has been read, and has committee recommendation of DO NOT PASS.

Engrossed SCR 4035 was declared lost on a voice vote.

MOTION

SEN. CHRISTMANN MOVED that HCR 3009 be returned to the Senate floor from the **Agriculture Committee**, which motion prevailed.

MOTION

SEN. CHRISTMANN MOVED that the rules be suspended and that HCR 3009 be placed at the top of the Fourteenth order for immediate second reading and final passage, which motion prevailed.

SECOND READING OF HOUSE CONCURRENT RESOLUTION

HCR 3009: A concurrent resolution urging the United States Department of Agriculture to maintain trade restrictions on all Canadian cattle and on all edible bovine meat products derived from cattle of Canadian origin until various health, safety, and economic concerns can be satisfactorily addressed.

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

HCR 3009 was declared adopted, and the title was agreed to on a voice vote.

MOTION

SEN. CHRISTMANN MOVED that the rules be suspended and that HCR 3009 be messaged to the House immediately.

SECOND READING OF HOUSE BILL

HB 1193: A BILL for an Act to amend and reenact subsection 7 of section 20.1-03-11 and section 20.1-08-04.6 of the North Dakota Century Code, relating to preferential landowner licenses to hunt elk.

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, 0 ABSENT AND NOT VOTING.

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

HB 1193, as amended, passed and the title was agreed to.

SECOND READING OF HOUSE BILL

HB 1238: A BILL for an Act to amend and reenact subsection 3 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 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, 0 ABSENT AND NOT VOTING.

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

HB 1238, as amended, passed and the title was agreed to.

SECOND READING OF HOUSE BILL

HB 1512: A BILL for an Act to create and enact section 15.1-27-04.1, a new subsection to section 57-38-30.3, a new subsection to section 57-39.2-02.1, and a new subsection to section 57-40.2-02.1 of the North Dakota Century Code, relating to school district cost factors, sales and use taxes and income taxes; to amend and reenact sections 15.1-09-47, 15.1-23-19, 15.1-27-08, 15.1-27-09, 15.1-27-18, 15.1-27-20, 15.1-29-12, 15.1-31-03, 15.1-31-07, 15.1-32-14, 57-15-01.1, 57-15-14, 57-35.3-03, 57-38-29, 57-38-30, and 57-38-55, subsection 3 of section 57-38.4-02, and sections 57-39.2-26, 57-39.5-02, 57-39.6-02, and 57-40.3-02 of the North Dakota Century Code, relating to the distribution of per student payments, school district property tax levies, financial institutions taxes, corporate and individual income taxes, and sales, use, and motor vehicle excise taxes; to provide hold harmless payments; to repeal sections 15.1-07-28,

15.1-12-11.1, 15.1-12-11.2, 15.1-27-04, 15.1-27-05, 15.1-27-06, 15.1-27-07, 15.1-27-10, 15.1-27-11, 15.1-27-12, 15.1-27-14, 15.1-27-15, 15.1-27-16, 15.1-27-17, 15.1-27-19, 15.1-27-21, 15.1-27-32, 15.1-27-33, 15.1-27-36, 15.1-27-37, 15.1-27-38, 15.1-27-40, and 15.1-28-03 of the North Dakota Century Code, relating to state aid payments to school districts, reorganization bonuses, joint powers association payments, the school district equalization factor, and supplemental payments; 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 NOT PASS, the roll was called and there were 2 YEAS, 45 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

YEAS: Tallackson; Triplett

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

Engrossed HB 1512 lost.

SECOND READING OF HOUSE BILL

HB 1075: A BILL for an Act to amend and reenact section 54-10-14 of the North Dakota Century Code, relating to payment of audit fees by political subdivisions.

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; Christmann; Cook; Dever; Erbele; Espgaard; Every; Fairfield; Fischer; Flakoll; Freborg; Grindberg; Hacker; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Mutch; Nelson; Nething; O'Connell; Robinson; Schobinger; Seymour; Stenehjerm; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Triplett; Urlacher; Wardner; Warner

HB 1075 passed and the title was agreed to.

SECOND READING OF HOUSE BILL

HB 1144: A BILL for an Act to create and enact a new section to chapter 57-38 of the North Dakota Century Code, relating to income tax withholding on lottery winnings; and to declare an emergency.

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, 0 ABSENT AND NOT VOTING.

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

HB 1144 passed, the title was agreed to, and the emergency clause was declared carried.

SECOND READING OF HOUSE BILL

HB 1199: A BILL for an Act to amend and reenact section 65-02-03.1 of the North Dakota Century Code, relating to appointment of the workforce safety and insurance board of directors; and to provide for application.

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; Christmann; Cook; Dever; Erbele; Espegard; Every; Fairfield; Fischer; Flakoll; Freborg; Grindberg; Hacker; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Mutch; Nelson; Nething; O'Connell; Robinson; Schobinger; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Triplett; Urlacher; Wardner; Warner

Engrossed HB 1199 passed and the title was agreed to.

SECOND READING OF HOUSE BILL

HB 1107: A BILL for an Act to create and enact a new subsection to section 57-01-02 of the North Dakota Century Code, relating to participation by the tax commissioner in the treasury offset program; and to provide a continuing appropriation.

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; Christmann; Cook; Dever; Erbele; Espegard; Every; Fairfield; Fischer; Flakoll; Freborg; Grindberg; Hacker; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Mutch; Nelson; Nething; O'Connell; Robinson; Schobinger; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Triplett; Urlacher; Wardner; Warner

HB 1107 passed and the title was agreed to.

SECOND READING OF HOUSE BILL

HB 1389: A BILL for an Act to amend and reenact subsections 1, 2, and 3 of section 53-06.2-11 of the North Dakota Century Code, relating to bet payoff formulas; and to provide an expiration 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; Christmann; Erbele; Espegard; Every; Fairfield; Fischer; Flakoll; Freborg; Grindberg; Hacker; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Mutch; Nelson; Robinson; Schobinger; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Triplett; Wardner; Warner

NAYS: Bowman; Cook; Dever; Lyson; Mathern; Nething; O'Connell; Urlacher

Reengrossed HB 1389 passed and the title was agreed to.

MOTION

SEN. CHRISTMANN MOVED that Joint Rule 203-2 be amended to read "forty-third" in place of "fortieth", thereby extending the deadline for transmitting resolutions to the House, and that the House be notified of this change. The motion prevailed.

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

MR. SPEAKER: The Senate wishes to inform the House that the Senate has voted to amend Joint Rule 203-2 to read "forty-third" in place of "fortieth", thereby extending the deadline for transmitting resolutions to the House.

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)
MR. SPEAKER: The Senate has passed unchanged: HB 1027, HB 1078, HB 1080, HB 1099, HB 1111, HB 1129, HB 1131, HB 1167, HB 1223, HB 1247, HB 1300, HB 1340, HB 1392, HB 1492, HB 1519.

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)
MR. SPEAKER: The Senate has passed unchanged: HCR 3009.

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)
MR. SPEAKER: The Senate has passed, the emergency clause carried, unchanged: HB 1139.

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)
MR. SPEAKER: The Senate has amended and subsequently passed: HB 1062, HB 1092, HB 1094.

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)
MR. SPEAKER: The Senate has amended, subsequently passed, and the emergency clause carried: HB 1266.

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)
MR. SPEAKER: The Senate has failed to pass: HB 1109.

MESSAGE TO THE SENATE FROM THE HOUSE (BRADLEY C. FAY, CHIEF CLERK)
MR. PRESIDENT: The House has passed unchanged: SCR 4017.

MESSAGE TO THE SENATE FROM THE HOUSE (BRADLEY C. FAY, CHIEF CLERK)
MR. PRESIDENT: The House has passed unchanged: SB 2040, SB 2057, SB 2072, SB 2088, SB 2089, SB 2092, SB 2093, SB 2097, SB 2100, SB 2106, SB 2107, SB 2108, SB 2124, SB 2126, SB 2140, SB 2154, SB 2156, SB 2161, SB 2165, SB 2171, SB 2176, SB 2185, SB 2207, SB 2276.

MESSAGE TO THE SENATE FROM THE HOUSE (BRADLEY C. FAY, CHIEF CLERK)
MR. PRESIDENT: The House has failed to pass: SB 2264.

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)
MR. SPEAKER: The President has signed and your signature is respectfully requested on: SB 2043, SB 2085, SB 2086, SB 2091, SB 2095, SB 2110, SB 2114, SB 2128, SB 2136, SB 2142, SB 2173, SB 2218.

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)
MR. SPEAKER: The President has signed: HB 1066, HB 1068, HB 1081, HB 1083, HB 1084, HB 1093, HB 1100, HB 1102, HB 1117, HB 1128, HB 1137, HB 1162, HB 1180, HB 1237, HB 1264, HB 1355, HB 1412.

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)
MR. SPEAKER: The President has signed: HCR 3020.

MESSAGE TO THE SENATE FROM THE HOUSE (BRADLEY C. FAY, CHIEF CLERK)
MR. PRESIDENT: The Speaker has signed: SB 2029, SB 2030, SB 2034, SB 2035, SB 2045, SB 2068, SB 2070, SB 2080, SB 2081, SB 2083, SB 2084, SB 2103, SB 2104, SB 2105, SB 2123, SB 2131, SB 2135, SB 2148.

MOTION

SEN. CHRISTMANN MOVED that the Senate be on the Fifth, Thirteenth, and Sixteenth orders of business and at the conclusion of those orders, the Senate stand adjourned until 1:00 p.m., Thursday, March 3, 2005, which motion prevailed.

REPORT OF STANDING COMMITTEE

SCR 4012: Political Subdivisions Committee (Sen. Cook, Chairman) recommends **BE PLACED ON THE CALENDAR WITHOUT RECOMMENDATION** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SCR 4012 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1041: Finance and Taxation Committee (Sen. Urlacher, Chairman) recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1041 was rereferred to the **Appropriations Committee**.

REPORT OF STANDING COMMITTEE

HB 1122: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends **DO PASS** (6 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). HB 1122 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1123: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1123 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1125, as engrossed: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1125 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1182, as engrossed: Political Subdivisions Committee (Sen. Cook, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1182 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1230: Education Committee (Sen. Freborg, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). HB 1230 was placed on the Sixth order on the calendar.

Page 1, line 2, after "programs" insert "; and to develop a plan for the provision of full-day kindergarten"

Page 1, after line 21, insert:

"SECTION 2. FULL-DAY KINDERGARTEN - PLAN. Before January 1, 2007, the board of each school district shall develop and file with the superintendent of public instruction a plan to provide a full-day kindergarten program beginning with the 2007-08 school year. The plan must address classroom space for the full-day kindergarten program, kindergarten curriculum development, kindergarten teacher recruitment, transportation of kindergarten students, options for cooperative delivery of a full-day kindergarten program by and among school districts, program cost factors, and any other issues related to the provision of a full-day kindergarten program beginning with the 2007-08 school year."

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1358: Education Committee (Sen. Freborg, Chairman) recommends **DO PASS** (4 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). HB 1358 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1460, as engrossed: Human Services Committee (Sen. J. Lee, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1460 was placed on the Sixth order on the calendar.

Page 1, line 8, remove "appropriations committees of the" and replace "assembly" with "council"

Page 1, line 14, replace "appropriations" with "legislative council"

Page 1, line 15, remove "committees"

Page 1, line 16, replace "appropriations committees determine" with "legislative council determines"

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1465, as reengrossed: Human Services Committee (Sen. J. Lee, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO**

PASS and **BE REREFERRED** to the **Appropriations Committee** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Reengrossed HB 1465 was placed on the Sixth order on the calendar.

Page 1, line 13, after the period insert "The department may seek a deficiency appropriation if necessary to cover the cost of payment for prescription drugs provided under this section."

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1491: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1491 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1498, as engrossed: Finance and Taxation Committee (Sen. Urlacher, Chairman) recommends **DO PASS** (4 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1498 was placed on the Fourteenth order on the calendar.

FIRST READING OF HOUSE BILLS

HB 1169: A BILL for an Act to provide for the North Dakota transmission authority, provide for the planning, constructing, owning, financing, maintaining, operating, and disposing of electric transmission facilities and related infrastructure, and to authorize issuance of revenue bonds; to amend and reenact subdivision 1 of subsection 2 of section 28-32-01 of the North Dakota Century Code, relating to an Administrative Agencies Practice Act exemption for the transmission authority; and to provide for reports to the legislative council.

Was read the first time and referred to the **Natural Resources Committee**.

HB 1332: A BILL for an Act to create and enact a new section to chapter 26.1-27 and chapter 26.1-27.1 of the North Dakota Century Code, relating to regulation of pharmacy benefits management.

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

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

William R. Horton, Secretary

