

JOURNAL OF THE SENATE

Fifty-ninth Legislative Assembly

Bismarck, February 28, 2005

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

The prayer was offered by Pastor Lisa Ahlness, Lord of Life Lutheran Church, Bismarck.

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

A quorum was declared by the President.

CONSIDERATION OF AMENDMENTS

HB 1062, as engrossed: SEN. TRAYNOR (Natural Resources Committee) MOVED that the amendments on SJ page 656 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

CONSIDERATION OF AMENDMENTS

HB 1094: SEN. WARDNER (Natural Resources Committee) MOVED that the amendments on SJ page 656 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

CONSIDERATION OF AMENDMENTS

HB 1266: SEN. NELSON (Government and Veterans Affairs Committee) MOVED that the amendments on SJ page 657 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

MOTION

SEN. CHRISTMANN MOVED that Engrossed HB 1099, which is on the Fourteenth order, be laid over one legislative day, which motion prevailed.

MOTION

SEN. CHRISTMANN MOVED that HB 1194, which is on the Fourteenth order, be rereferred to the **Appropriations Committee**, which motion prevailed. Pursuant to Sen. Christmann's motion, HB 1194 was rereferred.

SECOND READING OF HOUSE BILL

HB 1275: A BILL for an Act to create and enact a new section to chapter 54-59 of the North Dakota Century Code, relating to executive branch, legislative branch, and judicial branch reporting of information technology projects to the information technology advisory committee; and to amend and reenact section 54-59-07 of the North Dakota Century Code, relating to the state information technology advisory committee.

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 40 YEAS, 4 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

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

NAYS: Brown; Krebsbach; Thane; Triplett

ABSENT AND NOT VOTING: Bercier; Espegard; Tallackson

Engrossed HB 1275, as amended, passed and the title was agreed to.

SECOND READING OF HOUSE BILL

HB 1034: A BILL for an Act to create and enact a new section to chapter 54-12 of the North Dakota Century Code, relating to authorizing the attorney general to provide legal counsel to boards of health.

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, 2 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

YEAS: Andrist; Bowman; Brown; Christmann; Cook; Dever; Erbele; 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; Taylor; Thane; Tollefson; Traynor; Triplett; Urlacher; Wardner; Warner

NAYS: Syverson; Trenbeath

ABSENT AND NOT VOTING: Bercier; Espegard; Tallackson

HB 1034 passed and the title was agreed to.

SECOND READING OF HOUSE BILL

HB 1058: A BILL for an Act to provide for a legislative council study of game and fish laws, rules, and proclamations.

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, 42 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

YEAS: Bowman; Klein

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

ABSENT AND NOT VOTING: Bercier; Espegard; Tallackson

Engrossed HB 1058 lost.

SECOND READING OF HOUSE BILL

HB 1098: A BILL for an Act to amend and reenact section 39-08-13 of the North Dakota Century Code, relating to providing copies of accident reports.

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 44 YEAS, 0 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

YEAS: Andrist; Bowman; Brown; Christmann; Cook; Dever; Erbele; 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; Taylor; Thane; Tollefson; Traynor; Trenbeath; Triplett; Urlacher; Wardner; Warner

ABSENT AND NOT VOTING: Bercier; Espegard; Tallackson

HB 1098 passed and the title was agreed to.

SECOND READING OF HOUSE BILL

HB 1138: A BILL for an Act to amend and reenact sections 20.1-01-07, 20.1-02-05, 20.1-02-16.1, 20.1-02-16.5, 20.1-03-12, 20.1-06-13, and 20.1-07-02 of the North Dakota Century Code, relating to agreements with the bureau of reclamation for management of the Heart Butte area and deposit of interest income in the game and fish department private land habitat and access improvement 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 44 YEAS, 0 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

YEAS: Andrist; Bowman; Brown; Christmann; Cook; Dever; Erbele; 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; Taylor; Thane; Tollefson; Traynor; Trenbeath; Triplett; Urlacher; Wardner; Warner

ABSENT AND NOT VOTING: Bercier; Espegard; Tallackson

HB 1138 passed and the title was agreed to.

SECOND READING OF HOUSE BILL

HB 1166: A BILL for an Act to create and enact a new chapter to title 38 of the North Dakota Century Code, relating to the interstate mining compact.

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 44 YEAS, 0 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

YEAS: Andrist; Bowman; Brown; Christmann; Cook; Dever; Erbele; 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; Taylor; Thane; Tollefson; Traynor; Trenbeath; Triplett; Urlacher; Wardner; Warner

ABSENT AND NOT VOTING: Bercier; Espegard; Tallackson

Engrossed HB 1166 passed and the title was agreed to.

SECOND READING OF HOUSE BILL

HB 1218: A BILL for an Act to amend and reenact section 24-02-07.3 of the North Dakota Century Code, relating to the hiring of prequalified consultants 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 44 YEAS, 0 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

YEAS: Andrist; Bowman; Brown; Christmann; Cook; Dever; Erbele; 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; Taylor; Thane; Tollefson; Traynor; Trenbeath; Triplett; Urlacher; Wardner; Warner

ABSENT AND NOT VOTING: Bercier; Espegard; Tallackson

Engrossed HB 1218 passed and the title was agreed to.

SECOND READING OF HOUSE BILL

HB 1396: A BILL for an Act to provide for a legislative council study.

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 44 YEAS, 0 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

YEAS: Andrist; Bowman; Brown; Christmann; Cook; Dever; Erbele; 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; Taylor; Thane; Tollefson; Traynor; Trenbeath; Triplett; Urlacher; Wardner; Warner

ABSENT AND NOT VOTING: Bercier; Espegard; Tallackson

Engrossed HB 1396 passed and the title was agreed to.

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

MR. PRESIDENT: The Speaker has signed and your signature is respectfully requested on: HB 1037, HB 1077, HB 1079, HB 1085.

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

MR. PRESIDENT: The Speaker has signed and your signature is respectfully requested on: HB 1087, HB 1088, HB 1090, HB 1114, HB 1147.

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

MR. PRESIDENT: The Speaker has signed and your signature is respectfully requested on: HB 1053, HB 1059, HB 1082, HB 1132, HB 1133, HB 1150, HB 1158, HB 1160, HB 1192, HB 1212, HB 1219, HB 1226, HB 1228, HB 1267, HB 1436.

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

MR. PRESIDENT: The Speaker has signed and your signature is respectfully requested on: HB 1146.

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

MR. SPEAKER: The Senate has passed unchanged: 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, HCR 3020.

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

MR. SPEAKER: The Senate has passed, the emergency clause carried, unchanged: HB 1412.

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

MR. SPEAKER: The Senate has amended and subsequently passed: HB 1064.

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

MR. SPEAKER: The Senate has failed to pass: HB 1387.

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

MR. PRESIDENT: The House has passed unchanged: SB 2043, SB 2095, SB 2110, SB 2114, SB 2142, SB 2173.

MOTION

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

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., Tuesday, March 1, 2005, which motion prevailed.

REPORT OF STANDING COMMITTEE

SCR 4035: Political Subdivisions Committee (Sen. Cook, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (4 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SCR 4035 was placed on the Sixth order on the calendar.

Page 1, line 1, after "for" insert "counties to support"

Page 1, line 14, after "for" insert "counties to support"

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1027, as engrossed: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1027 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1078: Finance and Taxation Committee (Sen. Urlacher, Chairman) recommends **DO PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1078 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1080: Political Subdivisions Committee (Sen. Cook, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1080 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1092, as engrossed: Political Subdivisions Committee (Sen. Cook, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (4 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1092 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to repeal section 54-44.4-08 of the North Dakota Century Code, relating to the purchase of recycled paper products by state agencies and institutions.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. REPEAL. Section 54-44.4-08 of the North Dakota Century Code is repealed."

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1109: Judiciary Committee (Sen. Traynor, Chairman) recommends **DO NOT PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1109 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1111: Political Subdivisions Committee (Sen. Cook, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1111 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1129: Political Subdivisions Committee (Sen. Cook, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1129 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1131: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1131 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1139, as engrossed: Judiciary Committee (Sen. Traynor, Chairman) recommends **DO PASS** (4 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1139 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1167: Agriculture Committee (Sen. Flakoll, Chairman) recommends **DO PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1167 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1193: Natural Resources Committee (Sen. Lyson, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS**

(7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1193 was placed on the Sixth order on the calendar.

Page 2, line 28, overstrike "Notwithstanding this subsection, if a person"

Page 2, overstrike lines 29 and 30

Page 2, line 31, overstrike "and is eligible to apply for, but not transfer, a" and overstrike "license to hunt elk"

Page 3, line 1, overstrike "in future years."

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1223, as engrossed: Agriculture Committee (Sen. Flakoll, Chairman) recommends **DO PASS** (5 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). Engrossed HB 1223 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1238: Natural Resources Committee (Sen. Lyson, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1238 was placed on the Sixth order on the calendar.

Page 1, line 16, replace the first "the" with "only one" and after "license" insert "may be issued and the license"

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1247: Agriculture Committee (Sen. Flakoll, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1247 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1300, as engrossed: Political Subdivisions Committee (Sen. Cook, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1300 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1340: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends **DO PASS** (5 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). HB 1340 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1392: Agriculture Committee (Sen. Flakoll, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1392 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1404, as engrossed: Finance and Taxation Committee (Sen. Urlacher, Chairman) recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1404 was rereferred to the **Appropriations Committee**.

REPORT OF STANDING COMMITTEE

HB 1492, as engrossed: Agriculture Committee (Sen. Flakoll, Chairman) recommends **DO PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1492 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1519: Agriculture Committee (Sen. Flakoll, Chairman) recommends **DO PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1519 was placed on the Fourteenth order on the calendar.

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

William R. Horton, Secretary