

JOURNAL OF THE SENATE

Sixty-first Legislative Assembly

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Bismarck, May 2, 2009

The Senate convened at 8:00 a.m., with President Pro Tem Klein presiding.

The prayer was offered by Pastor Terry Parkman, Evangel Assembly of God, Bismarck.

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

A quorum was declared by the President.

CONSIDERATION OF CONFERENCE COMMITTEE REPORT

SEN. KREBSBACH MOVED that the conference committee report on Engrossed HB 1022 as printed on SJ pages 1737-1738 be adopted, which motion prevailed on a voice vote.

Engrossed HB 1022, as amended, was placed on the Fourteenth order.

SECOND READING OF HOUSE BILL

HB 1022: A BILL for an Act to provide an appropriation for defraying the expenses of various state retirement and investment agencies; to provide a transfer; to amend and reenact subsection 1 of section 15-39.1-09 of the North Dakota Century Code, relating to teachers' fund for retirement employer contributions; to provide for application; to provide an effective date; and to provide an expiration date.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 46 YEAS, 0 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Anderson; Andrist; Bakke; Behm; Bowman; Christmann; Cook; Dever; Dotzenrod; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Marcellais; Mathern; Miller; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Schneider; Stenehjem; Taylor; Triplett; Wanzek; Wardner; Warner

ABSENT AND NOT VOTING: Seymour

Engrossed HB 1022, as amended, passed and the title was agreed to.

CONSIDERATION OF CONFERENCE COMMITTEE REPORT

SEN. HOLMBERG MOVED that the conference committee report on Engrossed HB 1001 as printed on SJ pages 1736-1737 be adopted, which motion prevailed on a voice vote.

Engrossed HB 1001, as amended, was placed on the Fourteenth order.

SECOND READING OF HOUSE BILL

HB 1001: A BILL for an Act to provide an appropriation for defraying the expenses of the office of the governor; to amend and reenact sections 54-07-04 and 54-08-03 of the North Dakota Century Code, relating to the salaries of the governor and lieutenant governor; and to declare an emergency.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 46 YEAS, 0 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Anderson; Andrist; Bakke; Behm; Bowman; Christmann; Cook; Dever; Dotzenrod; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Marcellais; Mathern; Miller; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Schneider; Stenehjem; Taylor; Triplett; Wanzek; Wardner; Warner

ABSENT AND NOT VOTING: Seymour

Engrossed HB 1001, as amended, passed, the title was agreed to, and the emergency clause was declared carried.

MOTION

SEN. CHRISTMANN MOVED that Sen. O'Connell replace Sen. Seymour on the conference committee on SB 2001, which motion prevailed.

MESSAGE TO THE HOUSE FROM THE SENATE (FRAN A. GRONBERG, SECRETARY)

MR. SPEAKER: The Senate has failed to pass: HB 1216.

MESSAGE TO THE HOUSE FROM THE SENATE (FRAN A. GRONBERG, SECRETARY)

MR. SPEAKER: The President has appointed Sen. O'Connell to replace Sen. Seymour on the Conference Committee on SB 2001.

MESSAGE TO THE HOUSE FROM THE SENATE (FRAN A. GRONBERG, SECRETARY)

MR. SPEAKER: The Senate has adopted the conference committee report and subsequently passed: HB 1022.

MESSAGE TO THE HOUSE FROM THE SENATE (FRAN A. GRONBERG, SECRETARY)

MR. SPEAKER: The Senate has adopted the conference committee report, subsequently passed, and the emergency clause carried: HB 1001.

MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)

MR. PRESIDENT: The House has adopted the conference committee report and subsequently passed: HB 1481, HB 1551.

MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)

MR. PRESIDENT: The House has adopted the conference committee report and subsequently passed: SB 2162.

MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)

MR. PRESIDENT: The House has adopted the conference committee report, subsequently passed, and the emergency clause carried: SB 2030.

MESSAGE TO THE HOUSE FROM THE SENATE (FRAN A. GRONBERG, SECRETARY)

MR. SPEAKER: Your signature is respectfully requested on: SB 2014, SB 2015, SB 2024, SB 2277.

MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)

MR. PRESIDENT: Your signature is respectfully requested on: HB 1013, HB 1324, HB 1400.

MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)

MR. PRESIDENT: The Speaker has signed: SB 2014, SB 2015, SB 2024, SB 2277.

MESSAGE TO THE HOUSE FROM THE SENATE (FRAN A. GRONBERG, SECRETARY)

MR. SPEAKER: The President has signed: HB 1013, HB 1324, HB 1400.

MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)

MR. PRESIDENT: The Speaker has signed: HB 1013, HB 1324, HB 1400.

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 Pro Tem Klein presiding.

CORRECTION AND REVISION OF THE JOURNAL

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

Page 1402, line 39, replace "Wall" with "Wald"

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

MOTION

SEN. CHRISTMANN MOVED that HB 1327 be moved to the bottom of the Seventh order, which motion prevailed.

REPORT OF CONFERENCE COMMITTEE

SB 2010, as engrossed: Your conference committee (Sens. Kilzer, Fischer, Warner and Reps. Kreidt, Nelson, Ekstrom) recommends that the **HOUSE RECEDE** from the House amendments on SJ pages 1225-1226, adopt amendments as follows, and place SB 2010 on the Seventh order:

That the House recede from its amendments as printed on pages 1225 and 1226 of the Senate Journal and pages 1122 and 1123 of the House Journal and that Engrossed Senate Bill No. 2010 be amended as follows:

Page 1, line 2, after "arts" insert "; and to declare an emergency"

Page 1, line 11, replace "107,359" with "100,470" and replace "699,336" with "692,447"

Page 1, line 13, replace "234,450" with "224,450" and replace "1,839,728" with "1,829,728"

Page 1, line 14, replace "386,992" with "370,103" and replace "2,831,109" with "2,814,220"

Page 1, line 16, replace "229,824" with "212,935" and replace "1,385,623" with "1,368,734"

Page 2, line 1, replace "67,450" with "57,450"

Page 2, line 3, replace "67,450" with "57, 450"

Page 2, after line 10, insert:

"SECTION 4. APPROPRIATION - FEDERAL FISCAL STIMULUS FUNDS - ADDITIONAL FUNDING APPROVAL. The funds provided in this section, or so much of the funds as may be necessary, are appropriated from federal funds made available to the state under the federal American Recovery and Reinvestment Act of 2009, not otherwise appropriated, to the council on the arts, for the period beginning with the effective date of this Act and ending June 30, 2011, as follows:

Grants to arts organizations and administrative support	\$290,000
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The council on the arts may seek emergency commission and budget section approval under chapter 54-16 for authority to spend any additional federal funds received under the federal American Recovery and Reinvestment Act of 2009 in excess of the amounts appropriated in this section, for the period beginning with the effective date of this Act and ending June 30, 2011.

Any federal funds appropriated under this section are not a part of the agency's 2011-13 base budget. Any program expenditures made with these funds will not be replaced with state funds after the federal American Recovery and Reinvestment Act of 2009 funds are no longer available.

SECTION 5. EMERGENCY. Section 4 of this Act is declared to be an emergency measure."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT - LC 98029.0206 FN 4

A copy of the statement of purpose of amendment is on file in the Legislative Council Office.

Engrossed SB 2010 was placed on the Seventh order of business on the calendar.

CONSIDERATION OF CONFERENCE COMMITTEE REPORT

SEN. KILZER MOVED that the conference committee report on Engrossed SB 2010 be adopted, which motion prevailed on a voice vote.

Engrossed SB 2010, as amended, was placed on the Eleventh order.

SECOND READING OF SENATE BILL

SB 2010: A BILL for an Act to provide an appropriation for defraying the expenses of the council on the arts; and to declare an emergency.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 46 YEAS, 0 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Anderson; Andrist; Bakke; Behm; Bowman; Christmann; Cook; Dever; Dotzenrod; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Home; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Marcellais; Mathern; Miller; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Schneider; Stenehjem; Taylor; Triplett; Wanzek; Wardner; Warner

ABSENT AND NOT VOTING: Seymour

Reengrossed SB 2010 passed, the title was agreed to, and the emergency clause was declared carried.

REPORT OF CONFERENCE COMMITTEE

HB 1481: Your conference committee (Sens. Grindberg, Fischer, Krauter and Reps. Skarphol, Berg, Williams) recommends that the **SENATE RECEDE** from the Senate amendments on HJ page 1242, adopt amendments as follows, and place HB 1481 on the Seventh order:

That the Senate recede from its amendments as printed on page 1242 of the House Journal and page 1013 of the Senate Journal and that House Bill No. 1481 be amended as follows:

Page 1, line 1, remove "; and to provide"

Page 1, line 2, remove "contingent borrowing authority"

Page 1, line 5, replace "\$18,000,000" with "\$39,700,000"

Page 1, line 9, remove "- **BORROWING AUTHORITY**"

Page 1, line 10, replace "\$30,000,000" with "\$51,700,000" and replace "\$18,000,000" with "\$39,700,000"

Page 1, line 12, replace "shall" with "may"

Page 1, line 13, remove "both of the"

Page 1, remove lines 14 through 16

Page 1, line 17, remove "2. Fifty percent" and replace "up to" with "cash or pledges with a discounted cash value of at least"

Page 1, line 18, remove the third comma

Page 1, remove lines 19 through 24

Page 2, line 5, replace "30,000,000" with "51,700,000"

Page 2, line 6, replace "30,000,000" with "51,700,000"

Page 2, line 8, replace "18,000,000" with "39,700,000"

Page 2, after line 12, insert:

"SECTION 4. PROJECT MANAGER - HERITAGE CENTER ADDITION PROJECT. The director of the facility management division of the office of management and budget shall serve as the project construction manager for the heritage center addition project for the biennium beginning July 1, 2009, and ending June 30, 2011.

SECTION 5. APPROPRIATION - FEDERAL FISCAL STIMULUS FUNDS. The state historical society shall seek federal funds under the federal American Recovery and Reinvestment Act of 2009 for the heritage center expansion project. Any funds received are appropriated to the state historical society for the purpose of defraying the expenses of the project. The state historical society may not spend the

general fund moneys appropriated in section 1 of this Act to the extent that federal fiscal stimulus funds are received and spent for the project under this section."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT - LC 90850.0104 FN 1

A copy of the statement of purpose of amendment is on file in the Legislative Council Office.

HB 1481 was placed on the Seventh order of business on the calendar.

CONSIDERATION OF CONFERENCE COMMITTEE REPORT

SEN. GRINDBERG MOVED that the conference committee report on HB 1481 be adopted, which motion prevailed on a voice vote.

HB 1481, as amended, was placed on the Fourteenth order.

SECOND READING OF HOUSE BILL

HB 1481: A BILL for an Act providing an appropriation to the state historical society for a heritage center addition.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 45 YEAS, 1 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Anderson; Andrist; Bakke; Behm; Bowman; Cook; Dever; Dotzenrod; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Marcellais; Mathern; Miller; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Schneider; Stenehjelm; Taylor; Triplett; Wanzek; Wardner; Warner

NAYS: Christmann

ABSENT AND NOT VOTING: Seymour

HB 1481, as amended, passed and the title was agreed to.

REPORT OF CONFERENCE COMMITTEE

HB 1551: Your conference committee (Sens. Nething, Lyson, Fiebiger and Reps. Boehning, Klemin, Delmore) recommends that the **HOUSE ACCEDE** to the Senate amendments on HJ page 1451 and place HB 1551 on the Seventh order.

HB 1551 was placed on the Seventh order of business on the calendar.

CONSIDERATION OF CONFERENCE COMMITTEE REPORT

SEN. NETHING MOVED that the conference committee report on HB 1551 be adopted, which motion prevailed on a voice vote.

MOTION

SEN. CHRISTMANN MOVED that the Senate conference committee members on HB 1001, HB 1014, SB 2010, and SB 2277 be as indicated on the conference committee reports of the Seventy-sixth, Seventy-seventh, and Seventy-eighth legislative days, which motion prevailed.

MOTION

SEN. CHRISTMANN MOVED that the rules be suspended and the Majority Leader be authorized to replace members of any conference committee scheduled to meet Saturday, May 2, 2009; Sunday, May 3, 2009; and prior to 8:00 a.m., Monday, May 4, 2009, who do not attend the meeting, which motion prevailed.

MESSAGE TO THE HOUSE FROM THE SENATE (FRAN A. GRONBERG, SECRETARY)

MR. SPEAKER: The Senate has adopted the conference committee report on: HB 1551.

MESSAGE TO THE HOUSE FROM THE SENATE (FRAN A. GRONBERG, SECRETARY)

MR. SPEAKER: The Senate has adopted the conference committee report and subsequently passed: HB 1481.

MESSAGE TO THE HOUSE FROM THE SENATE (FRAN A. GRONBERG, SECRETARY)

MR. SPEAKER: The Senate has adopted the conference committee report, subsequently passed, and the emergency clause carried: SB 2010.

MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)

MR. PRESIDENT: The House has adopted the conference committee report and subsequently passed: HB 1008, HB 1014.

MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)

MR. PRESIDENT: The House has adopted the conference committee report, subsequently passed, and the emergency clause carried: SB 2019, SB 2020.

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 8:00 a.m., Monday, May 4, 2009, which motion prevailed.

REPORT OF CONFERENCE COMMITTEE

SB 2011: Your conference committee (Sens. Wardner, Krebsbach, Warner and Reps. Thoreson, Dosch, Glassheim) recommends that the **HOUSE RECEDE** from the House amendments on SJ pages 1247-1248, adopt amendments as follows, and place SB 2011 on the Seventh order:

That the House recede from its amendments as printed on pages 1247 and 1248 of the Senate Journal and pages 1179-1180 of the House Journal and that Senate Bill No. 2011 be amended as follows:

Page 1, line 1, after "patrol" insert "; and to provide a statement of legislative intent"

Page 1, line 11, replace "4,344,774" with "3,079,356" and replace "38,643,772" with "37,378,354"

Page 1, line 14, replace "4,901,605" with "3,636,187" and replace "43,167,133" with "41,901,715"

Page 1, line 16, replace "5,220,080" with "3,954,662" and replace "32,273,403" with "31,007,985"

Page 1, line 17, replace "3.00" with "1.00" and replace "196.00" with "194.00"

Page 2, after line 2, insert:

"Commercial vehicle information exchange window system	0	100,000"
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Page 2, line 4, replace "180,000" with "280,000"

Page 2, line 20, replace "\$220" with "\$200"

Page 2, after line 25, insert:

"SECTION 6. LEGISLATIVE INTENT - AUTOMATED PERMITS. It is the intent of the sixty-first legislative assembly that the highway patrol proceed with implementation of the commercial vehicle information exchange window system and with preparations to allow for the automated issuance of highway permits.

SECTION 7. COMMERCIAL VEHICLE INFORMATION EXCHANGE WINDOW SYSTEMS AND NETWORKS - USE OF FUNDING - BUDGET SECTION REPORT.

The administration line item in section 1 of this Act includes \$100,000 from the general fund for the commercial vehicle information systems and networks. Any funds designated for the implementation of the system that are not used for this purpose may not be spent for other purposes and must be included in the agency's unspent general fund appropriation authority for the biennium beginning July 1, 2009, and ending June 30, 2011. The highway patrol shall report semiannually to the budget section regarding the status of implementation of this system and on the use of these funds."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT - LC 98030.0103 FN 1

A copy of the statement of purpose of amendment is on file in the Legislative Council Office.

SB 2011 was placed on the Seventh order of business on the calendar.

REPORT OF CONFERENCE COMMITTEE

HB 1008, as engrossed: Your conference committee (Sens. Christmann, Kilzer, Warner and Reps. Thoreson, Berg, Kaldor) recommends that the **SENATE RECEDE** from the Senate amendments on HJ pages 1115-1116, adopt amendments as follows, and place HB 1008 on the Seventh order:

That the Senate recede from its amendments as printed on pages 1115 and 1116 of the House Journal and pages 954 and 955 of the Senate Journal and that Engrossed House Bill No. 1008 be amended as follows:

Page 1, line 2, after "section" insert "; to provide an exemption"

Page 1, line 13, replace "943,713" with "1,073,033" and replace "6,618,641" with "6,747,961"

Page 1, line 19, replace "(450,000)" with "0" and replace "450,000" with "900,000"

Page 1, line 20, replace "2,863,803" with "3,443,123" and replace "15,651,087" with "16,230,407"

Page 1, line 21, replace "2,125,513" with "2,623,933" and replace "10,128,822" with "10,627,242"

Page 1, line 22, replace "738,290" with "819,190" and replace "5,522,265" with "5,603,165"

Page 2, replace lines 14 through 21 with:

"SECTION 3. LEGISLATIVE INTENT - METROLOGY PROGRAM - BUDGET SECTION REPORT. It is the intent of the sixty-first legislative assembly that the public service commission discontinue providing metrology program services during the biennium beginning July 1, 2009, and ending June 30, 2011. It is further the intent of the legislative assembly that the public service commission and the department of commerce collaborate to assist with the transition of metrology services from a public to a private service by contracting with the private sector for services on a short-term basis, assisting with equipment acquisition, and providing referrals. The public service commission shall report to the budget section during the 2009-10 interim on the status of the metrology program.

SECTION 4. EXEMPTION. If the public service commission transitions metrology services from a public to a private service, the public service commission may sell or transfer property related to the metrology services in a manner that is determined by the commission to be of the greatest advantage to the state. The sale or transfer of the metrology equipment is not subject to the provisions of North Dakota Century Code section 54-44-04.6."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT - LC 98009.0203 FN 1

A copy of the statement of purpose of amendment is on file in the Legislative Council Office.

Engrossed HB 1008 was placed on the Seventh order of business on the calendar.

REPORT OF CONFERENCE COMMITTEE

HB 1014, as engrossed: Your conference committee (Sens. Grindberg, Krebsbach, Warner and Reps. Kreidt, Nelson, Metcalf) recommends that the **SENATE RECEDE** from the Senate amendments on HJ page 1027, adopt amendments as follows, and place HB 1014 on the Seventh order:

That the Senate recede from its amendments as printed on page 1027 of the House Journal and page 877 of the Senate Journal and that Engrossed House Bill No. 1014 be amended as follows:

Page 1, line 12, replace "288,285" with "489,802" and replace "4,341,801" with "4,543,318"

Page 1, line 13, replace "(265,692)" with "(152,726)" and replace "2,874,537" with "2,987,503"

Page 1, line 14, replace "553,977" with "642,528" and replace "1,467,264" with "1,555,815"

Page 1, line 15, replace "0.00" with "1.00" and replace "27.50" with "28.50"

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT - LC 98015.0302 FN 1

A copy of the statement of purpose of amendment is on file in the Legislative Council Office.

Engrossed HB 1014 was placed on the Seventh order of business on the calendar.

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

Fran A. Gronberg, Secretary