

JOURNAL OF THE SENATE

Fifty-ninth Legislative Assembly

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Bismarck, January 10, 2005

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

The prayer was offered by Chaplain Burnie Kunz, MedCenter One, Bismarck.

The roll was called and all members were present.

A quorum was declared by the President.

MOTION

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

REMARKS OF MAJORITY LEADER STENEHJEM

Mr. President, I have some sad news to report today. Former Senator Evan Lips passed away last night at the age of 86. Evan Lips was from District 47 in Bismarck and served the Senate for 38 years from 1961 through 1997. He served as Majority Leader in 1967 and President Pro Tem in 1971.

In his first session, Evan served on the Finance and Taxation and Judiciary Committees, but for the remaining 36 years of his service, he served on the Appropriations Committee, chairing that committee from 1973 through 1985.

Prior to his service in the Senate, Evan proudly served his country in World War II as a decorated Marine in the South Pacific. He was also elected Mayor of Bismarck in 1954 and held that office for 12 years.

Those of us who knew him appreciated his legendary ability to remember facts and figures from sessions long past and his willingness to work across party lines. He was tireless in his commitment to countless civic organizations. Even those who never had a chance to meet him will benefit from his big heart and major accomplishments due to all that he achieved for higher education. In recognition of his efforts, the University of North Dakota Medical School and Health Sciences in 2003 named an auditorium in his honor.

In his own words, Senator Lips said, "I'd like to think that a city or a state can use people in the political arena, that people should offer their talents to the community and try to make it a better place." Senator Evan Lips certainly made the Senate and the State of North Dakota a better place. Our hearts and prayers are with his family today. He will truly be missed.

His funeral service is scheduled for Friday at 10:30 a.m., at Trinity Lutheran Church.

CORRECTION AND REVISION OF THE JOURNAL

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

Page 49, line 6, replace "Dalrymple" with "Pro Tem Grindberg"

Page 49, line 9, after "President" insert "Pro Tem"

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

CONSIDERATION OF AMENDMENTS

SB 2073: SEN. LYSON (Human Services Committee) MOVED that the amendments on SJ page 43 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

CONSIDERATION OF AMENDMENTS

SB 2114: SEN. KLEIN (Agriculture Committee) MOVED that the amendments on SJ page 52 be adopted and then be **REFERRED** to the **Appropriations Committee** with **DO PASS**, which motion prevailed.

SECOND READING OF SENATE BILL

SB 2081: A BILL for an Act to amend and reenact subsection 2 of section 57-02-08.1 and subsection 3 of section 57-37.1-08 of the North Dakota Century Code, relating to the procedures for the refund of certain taxes.

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

SB 2081 passed and the title was agreed to.

SECOND READING OF SENATE BILL

SB 2096: A BILL for an Act to amend and reenact section 26.1-40-18 of the North Dakota Century Code, relating to automobile warranty contracts and requirements relating to contractual liability insurance for warranty providers.

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

SB 2096 passed and the title was agreed to.

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

MR. SPEAKER: The Senate has passed and your favorable consideration is requested on: SB 2039, SB 2040, SB 2075, SB 2109, SB 2112, SB 2118, SB 2126, SB 2136, SB 2140.

MOTION

SEN. CHRISTMANN MOVED that the Senate be on the Fifth and Ninth orders of business and at the conclusion of those orders, the Senate stand adjourned until 1:00 p.m., Tuesday, January 11, 2005, which motion prevailed.

REPORT OF STANDING COMMITTEE

SB 2028: Judiciary Committee (Sen. Traynor, Chairman) recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2028 was rereferred to the **Appropriations Committee**.

REPORT OF STANDING COMMITTEE

SB 2071: Government and Veterans Affairs Committee (Sen. Krebsbach, Chairman) recommends **DO PASS** (4 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2071 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2084: Education Committee (Sen. Freborg, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2084 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2091: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2091 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2131: Human Services Committee (Sen. J. Lee, Chairman) recommends **DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2131 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SCR 4002: Education Committee (Sen. Freborg, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SCR 4002 was placed on the Eleventh order on the calendar.

FIRST READING OF SENATE BILLS

Sens. Krebsbach, Wardner and Reps. Froseth, Mueller introduced:

SB 2161: A BILL for an Act to repeal section 47-10.1-03 of the North Dakota Century Code, relating to the prohibition of recording instruments transferring title to Agricultural land to an alien or certain business entities.

Was read the first time and referred to the **Government and Veterans Affairs Committee**.

Sens. J. Lee, Kilzer, Mathern and Reps. Delzer, Kreidt introduced:

SB 2166: A BILL for an Act to amend and reenact subsection 2 of section 19-03.3-01 and sections 19-03.3-02, 19-03.3-03, 19-03.3-04, and 19-03.3-05 of the North Dakota Century Code, relating to treatment and care for pain.

Was read the first time and referred to the **Human Services Committee**.

Sens. G. Lee, Heitkamp, Wardner and Reps. Delmore, D. Johnson, N. Johnson introduced:

SB 2168: A BILL for an Act to amend and reenact sections 15.1-07-28, 15.1-09-06, and 15.1-27-40 of the North Dakota Century Code, relating to educational associations governed by joint powers agreements; to provide for a legislative council study; and to provide an appropriation.

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

Sens. J. Lee, Flakoll, Nelson and Reps. Ekstrom, Kreidt introduced:

SB 2169: A BILL for an Act to create and enact a new section to chapter 54-52.1 of the North Dakota Century Code, relating to public employees retirement system health insurance coverage of colorectal cancer screening; and to provide an expiration date.

Was read the first time and referred to the **Human Services Committee**.

Sens. Wardner, Lyson, O'Connell and Reps. Froseth, Rennerfeldt, Solberg introduced:

SB 2170: A BILL for an Act to create and enact a new subsection to section 57-39.2-04 and a new subsection to section 57-40.2-04 of the North Dakota Century Code, relating to a sales and use tax exemption for carbon dioxide used for enhanced recovery of oil or natural gas; to amend and reenact subdivision b of subsection 5 of section 57-51.1-03 of the North Dakota Century Code, relating to an oil extraction tax exemption for incremental production from a tertiary recovery project; and to provide an effective date.

Was read the first time and referred to the **Finance and Taxation Committee**.

Sens. Holmberg, Brown, Fischer, J. Lee and Rep. Svedjan introduced:

SB 2171: A BILL for an Act to provide for licensure of acupuncturists by the state board of medical examiners.

Was read the first time and referred to the **Human Services Committee**.

Sen. Wardner and Rep. N. Johnson introduced:

SB 2172: A BILL for an Act to create and enact a new subdivision to subsection 18 of section 52-01-01 of the North Dakota Century Code, relating to exempting service in Americorps as covered employment for unemployment insurance purposes.

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

Sens. Wardner, Triplett and Rep. Hawken introduced:

SB 2173: A BILL for an Act to amend and reenact section 11-33-05 of the North Dakota Century Code, relating to compensation of county planning commission members.

Was read the first time and referred to the **Political Subdivisions Committee**.

Sens. Krebsbach, J. Lee and Reps. Hawken, Rennerfeldt introduced:

SB 2174: A BILL for an Act to repeal chapter 47-10.2 of the North Dakota Century Code, relating to escrow accounts.

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

Sens. Krebsbach, J. Lee and Reps. Rennerfeldt, Ruby introduced:

SB 2175: A BILL for an Act to amend and reenact section 6-03-05 of the North Dakota Century Code, relating to real estate appraisal requirements for real estate loans by banks.

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

Sen. Wardner introduced:

SB 2176: A BILL for an Act to amend and reenact subsection 31 of section 57-39.2-04 of the North Dakota Century Code, relating to sales and use tax exemption for sales of precious metal bullion; and to provide an effective date.

Was read the first time and referred to the **Finance and Taxation Committee**.

Sens. Wardner, Taylor and Reps. Kreidt, Onstad introduced:

SB 2177: A BILL for an Act to create and enact section 57-39.2-04.5 of the North Dakota Century Code, relating to a sales and use tax exemption for dairy farm machinery, equipment, and structural materials; and to provide an effective date.

Was read the first time and referred to the **Finance and Taxation Committee**.

Sens. Wardner, Taylor and Reps. Kreidt, Onstad introduced:

SB 2178: A BILL for an Act to create and enact a new section to chapter 57-38 and a new subsection to section 57-38-30.3 of the North Dakota Century Code, relating to an individual and corporate income tax credit for certain investments in a dairy farm milking operation; and to provide an effective date.

Was read the first time and referred to the **Finance and Taxation Committee**.

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

William R. Horton, Secretary