

JOURNAL OF THE HOUSE

Fifty-ninth Legislative Assembly

* * * * *

Bismarck, January 6, 2005

The House convened at 12:30 p.m., with Speaker Klein presiding.

The prayer was offered by Pastor Dom Vetter, Word of Faith Church, Bismarck.

The roll was called and all members were present except Representatives Belter, Charging, DeKrey, Drovdal, Kasper, and Sandvig.

A quorum was declared by the Speaker.

CORRECTION AND REVISION OF THE JOURNAL

MR. SPEAKER: Your **Committee on Correction and Revision of the Journal (Rep. Kretschmar, Chairman)** has carefully examined the Journal of the First Day and recommends that it be corrected as follows and when so corrected, recommends that it be approved:

On page 42, line 15 replace "Appropriations" with "Government and Veterans Affairs"

REP. KRETSCHMAR MOVED that the report be adopted, which motion prevailed.

MOTION

REP. KREIDT MOVED that HB 1047 be returned to the House floor from the **Education Committee** for the purpose of withdrawal, which motion prevailed.

REQUEST

REP. KREIDT REQUESTED the unanimous consent of the House to withdraw HB 1047. There being no objection, it was so ordered by the Speaker.

MOTION

REP. MONSON MOVED that HB 1036 be laid over one legislative day, which motion prevailed.

MOTION

REP. MONSON MOVED that the absent members be excused, which motion prevailed.

MOTION

REP. MONSON MOVED that the House be on the 9th Order of Business and at the conclusion of the 9th Order of Business, the House stand in recess until 1:15 p.m. At which time the House will meet in joint session with the Senate and that after the Joint Session with the Senate, the House stand adjourned until 12:00 NOON Friday, January 7, 2005.

MOTION

REP. NELSON MOVED that a committee of two be appointed to escort Lt. Governor Dalrymple to the rostrum, which motion prevailed. Speaker Klein appointed Rep. Grande and Sen. Erbele to the escort committee.

Speaker Klein turns the gavel over to Lt. Governor Dalrymple.

SEN. O'CONNELL MOVED that a committee of two be appointed to escort the Honorable John Hoeven, Governor of the Great State of North Dakota, to the rostrum, which motion prevailed. The Chair appointed Sen. Mutch and Rep. Kretschmar to the escort committee.

REP. NICHOLAS MOVED that a committee of two be appointed to escort Valentino White of Spirit Lake Nation and J.C. Crawford of Sisseton Sioux Tribe to special seating in the Chamber, which motion prevailed. The Chair appointed Sen. Bercier and Rep. Charging to the escort committee.

MOTION

REP. BERNSTEIN MOVED that a committee of two be appointed to escort Charles Murphy, Tribal Chairman of the Standing Rock Sioux Tribe to the rostrum, which motion prevailed. The Chair appointed Sen. Stenehjem and Rep. Berg to the escort committee.

State of the Tribal-State Relationship

January 6, 2005

Honorable Charles W. Murphy
Chairman, Standing Rock Sioux Tribe

Thank you. Thank you Mr. Speaker, House Majority Leader Rick Berg, Senate Majority Leader Bob Stenehjem, House Minority Leader Merle Boucher, Senate Minority Leader David O'Connell, Governor John Hoeven, Lt. Governor Jack Dalrymple, members of the North Dakota State Legislature, Tribal leaders, Tribal citizens, North Dakota citizens, and distinguished guests.

Thank you for inviting me to speak before a joint session of the North Dakota Legislature.

The Tribal Nations of North Dakota want to recognize all of the veterans that are in the audience today, veterans of my tribe, and all of our brave soldiers serving throughout the world, specifically in Iraq, who are protecting our precious freedoms. I am proud and humbled to be a Vietnam Veteran myself.

Your sacrifices and your family sacrifices will never be forgotten by the Standing Rock Sioux Tribe and all Tribal Nations.

In addition, I would like to give our sincere condolences to the families of the victims of the tragic Tsunami that hit islands and shores from the Indian Subcontinent to Africa. The Standing Rock Sioux Tribe is proud of the way America has reacted to this historic act of Mother Nature. I also want to thank the Sinte'-Ska drum group that sang the honor song and the Standing Rock Vietnam Veterans Association Color Guard. Thank you for bringing our culture into this important event.

This is now the 11th time a Tribal Chairperson has stood before you and delivered an address called the "State of the Tribal-State Relationship." This began 20 years ago in 1985.

Today I'm speaking on behalf of the Standing Rock Sioux Tribe. What I say here today reflects my thoughts.

Plenty has happened between the Tribal Nations in North Dakota and the State of North Dakota in the past 20 years, and I believe most has been good.

Further, I believe that because of our work together we have learned how to cooperate with one another in many different areas.

That's really the theme of this address - tribal-state cooperation.

Let me give you some examples:

Together, with the Legislature and the Governor, in 1992, and again through negotiations in 1999, we worked out a Tribal-gaming compact that provides Tribal members with jobs, income, and a sense of pride and accomplishment. We review our compact every two years with the legislative leaders and the Governor. We believe this process has worked for both the members of my Tribe and the citizens of North Dakota. This cooperation has led to more than 2,000 full-time jobs in isolated, rural areas of North Dakota, where the previous unemployment rates on the reservation were as high as 75 percent.

Not only does our casino provide jobs, it takes people off welfare. As studies have shown, approximately 40 percent of our current casino employees were former recipients of welfare.

At the same time, it makes a significant economic impact on our local economy and the surrounding region. The five tribal casinos located in the State of North Dakota purchase over \$40 million annually in goods and services. These purchases are made in 93 communities within the state. I invite all of you to come and visit our Prairie Knights Casino, entertainment center, lodge, and marina, when water levels permit. We're always thankful for your patronage.

I know that's a shameless plug for our casino, but the point is, that we have an economic engine - tourism - that never existed before, because of cooperation with the State of North Dakota.

Our Tribe has also signed with the State of North Dakota a "Tribal-State accord" that recognizes our government-to-government relationship with North Dakota, which is based on treaties and federal law. Out of that effort came the agreement regarding collection of motor fuel taxes.

More recently, the members of the Standing Rock Sioux Tribe have suffered first through a devastating prairie fire that destroyed the entire community of Shields and then the loss of

water to 10,000 people in Sioux County because of low water levels on Lake Oahe. The State of North Dakota, and Governor Hoeven, were right there on the scene in both cases with help. In fact, the Governor himself is responsible for helping to save a home north of Fort Yates from the prairie fire in 2002. While touring by helicopter, the Governor noticed an unprotected home in the path of the fire. He had his chopper land and made contact with another Guard helicopter that brought in water to help douse the fire from the air, saving the home.

Governor, the members of my Tribe are very grateful. You were there on the fire line, you were there when the water ran out in Fort Yates, and I want to take this opportunity to publicly thank you again for all you've done.

Respectful cooperation is exactly the kind of good thing we can build on to make our relationship even stronger.

We know that through our cooperation we can ensure a clean, safe, and dependable water supply, not only for our Tribal members, but also for all citizens of North Dakota who depend on water coming from Lake Oahe and for that matter, Lake Sakakawea. Communities from Parshall through Garrison on to Fort Yates have greatly suffered. This must not happen again.

We need to work together, State and Tribes, in a lawsuit if necessary, to make sure that all of our citizens are never again left high and dry without water because of the actions of the U.S. Army Corps of Engineers.

I also want to thank the Legislature and the Governor for their help in restoring federal funding for United Tribes Technical College. Education is important to all of us. This funding is vital. We have a growing population of young people, who otherwise would have no chance for a first-rate vocational and technical education. As Chairman of the Board at United Tribes, I know how important our relationship with the State of North Dakota has been and will continue to be.

Our enrollment is on the increase. We are launching efforts to gain additional support in the private sector.

We have a strategic plan for expanding the campus which will help us provide more services and educate more students. I would like to introduce a U.T.T.C. student we are proud of. Jason Pretty Boy is from Standing Rock. He's a member of the U.T.T.C. Student Senate and just won a national scholarship. He's one of the reasons we appreciate your support.

In addition, we appreciate the Legislature and the Governor's efforts regarding "First Nations Day" - a true bipartisan effort. I would like to thank Senators Bob Stenehjem and Dave O'Connell and Representatives Rick Berg and Merle Boucher for the leadership they provided concerning First Nations Day. In both 2003 and 2004 the observance of this day has given the State of North Dakota yet another chance to begin to understand the common issues we face.

These are some of the areas of cooperation. There's much more to do and more that we can do together.

For example, we now have a grant from the Department of Justice to assist us, in cooperation with the State Legislature, the Governor's Office, and the Attorney General's Office, to reduce the use of drugs and alcohol statewide. We must stop the use of meth in our rural communities, whether on or off the reservations. I'm confident that we can cooperate on this issue and make a real impact to reduce drug use. I personally would like to thank Attorney General Wayne Stenehjem for his leadership concerning our continued battle with this horrific problem.

Another topic, health care, is of great concern to us. Our people suffer from diabetes and heart disease. The numbers are much higher than state and national averages.

But again, I believe there's hope for the future. I've made sure that our Tribe is well represented in a statewide health care task force just now getting started. We want to make sure that wherever our Tribal members are located in the State of North Dakota, they have access to quality health care and can learn to adopt a healthy lifestyle.

We know that more needs to be done to strengthen efforts to reduce discrimination in our state. But don't misunderstand me. Discrimination is not an excuse.

It's vitally important for our Tribal members to have the skills through education and job training to overcome discrimination, to know how to get and keep a job, to work hard and be the most productive citizens they can be, no matter what kind of education and job they decide to seek, no matter what the barriers may be.

We know that we can do a lot more to assist each other with economic development. Our unemployment rate is still too high, 50 percent or more, and we know we have a lot of talented people who can fill good jobs and reduce the welfare roles.

We appreciate the leadership provided by Representatives Rick Berg, George Keiser, and Ken Svedjan, and Senators Bob Stenehjem, Dwight Cook, and Rich Wardner and the efforts made by the 58th Legislative Assembly concerning HB 1504. This bill states that the Interim Legislative Council should consider "methods of creating business partnerships with North Dakota Indian tribes in order to increase primary sector business growth in the state, with a focus on business opportunities that may be available to North Dakota Indian tribes through the United States Small Business Administration 8(a) business development program."

We appreciate that the Governor mentioned in his State of the State speech on Tuesday the effort started last session to involve Tribes and their members in state economic development efforts. We look forward to working with the Legislature to strengthen the proposed legislation. We need to figure out ways to encourage tribal economic development and to create the opportunities for the partnerships the Governor and the Legislature have begun to talk about. In the end, our tribal economic development, as we have already seen in gaming, creates new opportunities and jobs for state citizens and is good for the State of North Dakota. We look forward to working with the Governor and the Legislature on these issues in this 59th Legislative Assembly to continue this effort.

Our Tribe has limited funding available for economic development from the Equitable Compensation Act. We received these funds because of the loss of our lands that are now under Lake Oahe. The simple fact is that these funds are not enough to reduce our unemployment picture.

We are also working together with the State on child care licensing issues. Child care is a vital component of economic development.

Housing also remains a critical issue for our people. We need to learn to develop strategies to increase our housing supply; I know we can do this.

In closing, let me say that I look forward to working with the Legislature to create economic development programs that serve the interests of all citizens of North Dakota.

There are so many positive things that we can accomplish if we do as one of our great Hunkpapa leaders, Sitting Bull, said years ago, "put our minds together and work to solve the problems."

Our Tribal-State relationship will flourish through cooperation, respect, and communication. We've been working on that for the past 20 years and we must continue doing so in the future. When issues arise or information is needed, please feel free to contact my office. Many times things can be worked out fairly and quickly in this manner. Pe'lamaya (Thank you). God Bless America and the freedom it represents.

MOTION

REP. MONSON MOVED that the address of Chairman Murphy be printed in the Journal, which motion prevailed.

REP. MONSON MOVED that the Joint Session be dissolved, which motion prevailed.

FIRST READING OF HOUSE BILLS

Reps. S. Meyer, Gulleason, Solberg and Sens. Bowman, Grindberg, Taylor introduced:

HB 1223: A BILL for an Act to create and enact a new section to chapter 53-10 of the North Dakota Century Code, relating to liability for injury or damage incurred during equine activity; and to amend and reenact section 53-10-02 of the North Dakota Century Code, relating to liability for injury or damage incurred during equine activity.

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

Reps. Ruby, Bellew, Kretschmar, Metcalf and Sens. Mathern, Tollefson introduced:

HB 1224: A BILL for an Act to amend and reenact subsection 3 of section 39-08-01 and section 39-08-01.3 of the North Dakota Century Code, relating to the impoundment of number plates and motor vehicles for driving while under the influence.

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

Reps. Ruby, Bellew, Kretschmar, Metcalf and Sens. Mathern, Tollefson introduced:

HB 1225: A BILL for an Act to amend and reenact subsection 3 of section 39-06-03 of the North Dakota Century Code, relating to individuals to whom motor vehicle operator's licenses may not be issued.

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

Reps. Damschen, Bellew, Porter introduced:

HB 1226: A BILL for an Act to amend and reenact section 32-03.1-02.3 of the North Dakota Century Code, relating to notification to the state department of health of acquisition of an automated external defibrillator.

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

Reps. Ruby, Bellew, Carlson and Sens. Fischer, Thane introduced:

HB 1227: A BILL for an Act to create and enact a new section to chapter 12.1-16 and a new section to chapter 43-17 of the North Dakota Century Code, relating to the protection of a preborn child and the duty of physicians; and to provide a penalty.

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

Reps. Delmore, Hawken, Mueller and Sens. Flakoll, G. Lee, Taylor introduced:

HB 1228: A BILL for an Act to amend and reenact section 15.1-07-12 of the North Dakota Century Code, relating to the disbursement of moneys by a school district business manager.

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

Reps. Kreidt, Devlin, Uglen and Sens. Brown, Espegard, J. Lee introduced:

HB 1229: A BILL for an Act to create and enact a new subsection to section 39-01-15 of the North Dakota Century Code, relating to mobility-impaired parking permits.

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

Reps. Mueller, Delmore, Haas, Hawken and Sens. Flakoll, Taylor introduced:

HB 1230: A BILL for an Act to amend and reenact section 15.1-22-01 of the North Dakota Century Code, relating to the provision of kindergarten programs.

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

Reps. D. Johnson, Maragos, Nicholas and Sen. Traynor introduced:

HB 1231: A BILL for an Act to create and enact three new sections to chapter 25-07 of the North Dakota Century Code, relating to the provision of services to individuals who are deaf or hearing impaired; to amend and reenact sections 25-07-01, 25-07-04, 25-07-05, 25-07-06, 25-07-08, and 25-07-11 of the North Dakota Century Code, relating to the school for the deaf; and to repeal section 25-07-10 of the North Dakota Century Code, relating to the reporting of individuals who are deaf or hearing impaired.

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

Reps. Froelich, D. Johnson, R. Kelsch and Sens. Flakoll, Seymour introduced:

HB 1232: A BILL for an Act to create and enact a new section to chapter 15.1-09 of the North Dakota Century Code, relating to stipends for student teachers.

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

Reps. N. Johnson, Delmore and Sens. Brown, Flakoll, Wardner introduced:

HB 1233: A BILL for an Act to amend and reenact section 15.1-09-33 of the North Dakota Century Code, relating to school board membership dues.

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

Reps. Hawken, Delmore, Mueller and Sens. Brown, Every, Flakoll introduced:

HB 1234: A BILL for an Act to amend and reenact subsection 7 of section 15.1-27-07 of the North Dakota Century Code, relating to payments for kindergarten students.

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

Reps. Klemin, Carlisle, Monson and Sens. Dever, Lyson, Trenbeath introduced:

HB 1235: A BILL for an Act to amend and reenact section 31-13-03 of the North Dakota Century Code, relating to which offenders are subject to DNA testing.

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

Reps. Hawken, R. Kelsch and Sens. Espegard, Wardner introduced:

HB 1236: A BILL for an Act to amend and reenact section 15.1-09-31 of the North Dakota Century Code, relating to the publication of school board proceedings.

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

Reps. Hawken, Delmore, N. Johnson and Sens. Erbele, Flakoll introduced:

HB 1237: A BILL for an Act to amend and reenact section 15.1-32-14 of the North Dakota Century Code, relating to the forwarding of special education per student payments.

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

Reps. Porter, Kempenich, Nelson, Norland and Sens. Heitkamp, Lyson introduced:

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.

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

Reps. Porter, DeKrey, Haas, Herbel and Sens. Freborg, Urlacher introduced:

HB 1239: A BILL for an Act to amend and reenact section 20.1-01-07 of the North Dakota Century Code, relating to offroad hunting.

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

Reps. Dietrich, Carlson, Potter, Weiler, Wieland and Sen. J. Lee introduced:

HB 1240: A BILL for an Act to amend and reenact subsection 4 of section 43-23-08 of the North Dakota Century Code, relating to real estate salesperson education requirements for licensure; and to provide an effective date.

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

REPORT OF STANDING COMMITTEE

HB 1034: Government and Veterans Affairs Committee (Rep. Haas, Chairman) recommends **DO PASS** (13 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). HB 1034 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1037: Judiciary Committee (Rep. DeKrey, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1037 was placed on the Sixth order on the calendar.

Page 1, line 4, after "references" insert "; and to repeal section 23-29-07.7 of the North Dakota Century Code, relating to obsolete provisions"

Page 3, after line 20, insert:

"**SECTION 7. REPEAL.** Section 23-29-07.7 of the North Dakota Century Code is repealed."

ReNUMBER accordingly

REPORT OF STANDING COMMITTEE

HB 1039: Government and Veterans Affairs Committee (Rep. Haas, Chairman) recommends **DO NOT PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1039 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1060: Industry, Business and Labor Committee (Rep. Keiser, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1060 was placed on the Sixth order on the calendar.

Page 1, line 3, after "requirements" insert "; and to declare an emergency"

Page 2, after line 12, insert:

"**SECTION 3. EMERGENCY.** This Act is declared to be an emergency measure."

ReNUMBER accordingly

REPORT OF STANDING COMMITTEE

HB 1075: Political Subdivisions Committee (Rep. Devlin, Chairman) recommends **DO PASS** (12 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1075 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1085: Political Subdivisions Committee (Rep. Devlin, Chairman) recommends **DO PASS** (12 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1085 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1094: Agriculture Committee (Rep. Nicholas, Chairman) recommends **DO PASS** (11 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). HB 1094 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1109: Human Services Committee (Rep. Price, Chairman) recommends **DO PASS** (12 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1109 was placed on the Eleventh order on the calendar.

The House stood adjourned pursuant to Representative Monson's motion.

Bradley C. Fay, Chief Clerk

