

Third Day of Legislative Organizational Session**JOURNAL OF THE SENATE****Sixty-fourth Legislative Assembly**

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Bismarck, December 3, 2014

The Senate convened at 8:30 a.m., with President Wrigley presiding.

The prayer was offered by Pastor Rich Wyatt of Living Hope Nazarene, Bismarck.

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

A quorum was declared by the President.

MOTION

SEN. KLEIN MOVED that the Senate stand in recess until 9:10 a.m., which motion prevailed.

THE SENATE RECONVENED pursuant to recess taken, with President Wrigley presiding.

POINT OF PERSONAL PRIVILEGE

SEN. FLAKOLL rose on a point of personal privilege.

REMARKS OF SENATOR FLAKOLL

MR. PRESIDENT: My comments are an amalgamation of my thoughts as well as various written comments of others.

Mr. President, last night my community of Fargo and our great state lost a giant of a man. It is hard to find words to thank and honor someone who saved your hometown.

Mayor Denny Walaker was at times a larger than life and iconic man, but he was human. During the flood of the century in 1997 he shed tears while watching the flood flight in my district. His firm guidance and soothing bass voice helped calm a scared community, and it was that flood of 1997 that turned Denny into a folk hero both locally and across the country.

He led us through something like four flood of the century events in 12 years. In 2009 when officials outside Fargo told him we should all evacuate and surrender the city to the flood, he told them in polite but firm terms in essence "to go pack sand." To give you an example of the challenge, if you look up to the ceiling, the distance between your head and the ceiling is a similar height that the waters were above flood stage.

Denny was so admired because he was first and foremost one of us - an everyman. He was a friend, a doer, a believer, and an inspirer; but we never would believe that a man that big, that strong, that smart, that savvy would die - never - because he had won so many seemingly unwinnable battles before and we have grown accustomed to him beating the odds, but Denny was human.

Several years ago, when a young girl died after her teenage sister hit a rut in the road on South University Drive and spun into oncoming traffic, Walaker did something very unpolitical - he took responsibility and said the city, not the new driver, bore the blame. It was a compassionate moment in a horrible situation, and it further solidified his place in our hearts.

Our giant has fallen. Dennis Walaker has lost this fight. He protected what he valued, and that was Fargo.

It seems appropriate that the night Walaker died, the Red River was at its calmest moment of the year, half-frozen-over and barely moving. Perhaps it's the river's way of telling Denny he can sleep in peace. He's fought long enough.

Our thoughts and prayers go out to his wife Mary and the rest of his family.

Yesterday is history, tomorrow is a mystery, today is God's gift, that's why we call it the present.

REQUEST

SEN. KLEIN REQUESTED that the remarks of Sen. Flakoll be printed in the Journal, which request was granted.

POINT OF PERSONAL PRIVILEGE

SEN. NELSON rose on a point of personal privilege.

REMARKS OF SENATOR NELSON

MR. PRESIDENT: The residents of Fargo, Cass County, and the state all mourn the passing of Mayor Dennis Walaker, the man who lead Fargo with a unique management style. He was a master of flood control. He was a kind man, a hard-working man, a man who loved his family first but had a huge extended family of friends. Many of you probably didn't know that Dennis, along with Mayors DelRae William and Rich Mattern were very good at choral reading resolutions. It was a fun experience to listen to them. Growing up in rural Cass County, he know the nature of the mighty Red River and its tributaries. He could read the snow levels and accurately predict the flood crests. As a resident of a riverside apartment, I knew when the giant 14 foot dirt levee would rise on 2nd Street, Fargo knew when sandbag central would start operations, and we all knew that Fargo would be safe. He was common sense personified. We mourn his passing and send prayers to his family. His legacy will live for years to come. Rest in peace, Denny.

REQUEST

SEN. KLEIN REQUESTED that the remarks of Sen. Nelson be printed in the Journal, which request was granted.

POINT OF PERSONAL PRIVILEGE

SEN. TRIPLETT rose on a point of personal privilege.

REMARKS OF SENATOR TRIPLETT

MR. PRESIDENT: I rise regarding something that has happened to me personally in the last few days, and before I start, I want to say to you and the body that I am well aware of Senate Rule 311 regarding questions of personal privilege. We have no right to chastise any other member of the body, and I just want to say up front that it is not my intention to do that.

I do want to say that I listened carefully to the four speeches by leadership yesterday in our ethics presentation on the topic of respect and trust and civility, and I have to say that I agree with every word spoken by each of the four leaders.

I have one additional topic that I would like to propose, and I know that this speech will make no difference in the decisions that have already been made here in the last couple of days, but I think it's a cautionary note about what we are doing here and how we make decisions. In addition to the concepts of respect, trust, and civility, I would like to propose that we hold the notion of logical reasoning close in hand.

I want to talk first about two longstanding traditions in this body, traditions that go back long before I was here. I will say at the outset that honoring traditions is one way of offering respect. Honoring traditions is a sign of respect. If a tradition is going to be abandoned, it is my opinion that it should be done collectively and thoughtfully. So as long as a tradition exists, I think it should be honored.

We have two traditions here that I am going to mention. One is a longstanding tradition that the Majority Leader accepts the committee assignments for members of the minority that are preferred by the Minority Leader, except in rare cases. I have done a little research in the past couple days, and I am aware of only two cases in the past 30 years in which that tradition has been not accepted. Interestingly it was done once by one party and once by the other, so about a tie there. The second tradition that I wanted to mention is one that is inside my own caucus and has been a longstanding tradition that appointments to the Appropriations Committee are based solely upon seniority combined with interests; of course not everyone wants to serve on the Appropriations Committee.

It happens this year that it would be my turn to serve on the Appropriations Committee given that there is a vacancy caused by the voluntary removal of one of our members. When it became obvious that I was not going to be appointed, I did ask for an audience with the Majority Leader; and because I was aware of a couple instances in the past, I did ask if I was somehow politically unacceptable to the caucus, and I was told I was not. The only reason that I was being passed over was because there was a desire to maintain the same rural/urban split that currently exists on the Appropriations Committee - one rural legislator was being replaced with another rural legislator - and that, Mr. President, is where I get to my request that in all of our deliberations going forward, that we add a little bit of logical reasoning to what we do.

North Dakota has become more urban in recent years. We can all mourn that. I grew up on a farm in a small town, graduated from high school in a class of eight. I know rural really well, and I too mourn the loss of the rural lifestyle in North Dakota, but the facts are the facts. We all know from the recent redistricting North Dakota lost two rural districts and replaced them with two urban districts following the constitutional mandate of one person, one vote. Obviously there is no requirement that each of our committees reflect the overall demographics of the state, nor do I think it would be even theoretically possible to do so; but, since demographics was given as the only reason for denying me a seat on the Appropriations Committee, I just want to give this very brief lesson in demographics. North Dakota is now approximately 60% urban and 40% rural. In a 13 member committee the math would work out to be an 8-5 split rather than the 7-6 that was there in the last session, in other words changing from one rural person to an urban person, which makes the demographics right.

The second point, using federal standard metropolitan statistical areas (SMSAs) of which we have three in this state, the combined total of those three counties in which the SMSAs are located total 53% of the population of ND, meaning approximately one half of the committee should come from those three counties using the minimal number of half since we have an odd number, which would be six. We already have two members from each of the other two counties that have standard metropolitan areas. My county has only one member. So again, I would have been the perfect person to fit that slot.

My district is one of the most gerrymandered districts in the state. While most of my constituents are urban, I do represent three rural townships, which have been the subject of very intense land use controversies during the time I served on the county commission. I do have a rural constituency that I serve, again making that transition from rural to urban.

Fourth, I served on the county commission for 16 years, and during that time I was always active in the North Dakota Association of Counties, and so I am familiar with rural issues from across the state.

Fifth, as I said earlier, I grew up in the western part of the state. I still have family out here. I travel frequently in the western part of North Dakota and especially since the onset of the current oil boom and my position on the Natural Resources Committee. For the last several years I have spent consciously an enormous amount of time in western North Dakota.

For all of those five reasons, I would submit that I was the very best candidate to make the transition from a rural dominance on the Appropriations Committee to an acknowledgment of the state's reality, and while this speech will make no change in the outcome of what we're going to do in the next few minutes, I think it's just an object lesson in thinking through policies before we make decisions.

I thank you for your time and attention.

REQUEST

SEN. SCHNEIDER REQUESTED that the remarks of Sen. Triplett be printed in the Journal, which request was granted.

REPORT OF PROCEDURAL COMMITTEE

MR. PRESIDENT: Your procedural **Rules Committee (Sen. Holmberg, Chairman)** recommends that the Senate and Joint Rules of the Sixty-third Legislative Assembly, as adopted on Wednesday, December 5, 2012, and published in the 2013 Senate and House Rules and Committees book, with the following amendments, be adopted as the permanent rules of the Senate for the Sixty-fourth Legislative Assembly, and that the reading of this

report be dispensed with:

SECTION 1. AMENDMENT. Senate Rule 306 is amended as follows:

306. Rules of debate. No member may speak more than twice on the same question without leave of the Senate, nor more than once until every member choosing to speak on the question pending has spoken. No member may speak for more than ten minutes the first time, nor more than five minutes the second time. This rule does not apply to the Majority and Minority Leaders and the chairman of the committee in charge of the bill, or to a spokesman designated by that chairman.

SECTION 2. Senate Rule 339.1 is created as follows:

339.1. Voice votes. Except as provided in Senate Rule 340, or when a roll call vote is requested under Senate Rule 320, or when a verification vote is requested under Senate Rule 343, action that results in final disposition of a resolution must be taken by voice vote and the results must be recorded in the journal.

SECTION 3. AMENDMENT. Senate Rule 401 is amended as follows:

401. Who may introduce - Joint sponsorship - Prefiling.

1. Any bill or resolution that conforms to statutory requirements and these rules, within the number and time prescribed, may be introduced by any member, standing committee, or the Legislative Management, by filing the bill or resolution with the Secretary, who shall number consecutively each bill or resolution.
2. Any bill or resolution may have, following and separate from the name or names of the Senate sponsor or sponsors, the name of each sponsor from the House. A Senate bill or resolution may not have more than six members of the Legislative Assembly as sponsors.
3. Any bill or resolution may be introduced after the organizational session adjourns and before the convening of the regular session by prefiling the bill or resolution with the Legislative Council. The Legislative Council shall number those bills and resolutions, identify the sponsoring committee as assigned by the Majority Leader of the Senate, arrange for the posting of notice of hearing, and deliver those bills and resolutions to the Secretary. Prefiled bills and resolutions may not be withdrawn, except on the floor of the Senate in the manner provided by the rules. Prefiled bills and resolutions are not confidential.

SECTION 4. AMENDMENT. Subsection 1 of Senate Rule 402 is amended as follows:

1. No member other than the Majority and Minority Leaders may introduce more than three bills as prime sponsor after the tenth legislative day. A bill containing an appropriation clause may not be introduced after the tenth legislative day. No bill may be introduced after the fifteenth legislative day, and no resolution, except those resolutions described in subsection 3, may be introduced after the eighteenth legislative day, except upon approval of a majority of the Delayed Bills Committee or upon two-thirds vote of the members of the Senate present and voting.

SECTION 5. Senate Rule 507.1 is created as follows:

507.1. Hearing of measures. Every bill and resolution referred to committee must be scheduled for a hearing in committee, and a hearing must be held on the bill or resolution before the appropriate deadline for reporting the bill or resolution back to the Senate.

SECTION 6. AMENDMENT. Subsection 4 of Senate Rule 501 is amended as follows:

4. The two-day standing committees are:
 - a. Agriculture: (5 members)
Agriculture; Livestock; Drainage and Irrigation; Warehouse and Grain Grading.

- b. Government and Veterans Affairs: (7 members)
State and Federal Affairs; Government Pensions and Benefits; Military and Veterans Affairs; Industrial Commission and institutions under its supervision; State Historical Society and State Parks.
- c. Energy and Natural Resources: (7 members)
Game and Fish; Public Lands; Mines and Mining; Gas and Oil; Forestry.
- d. Political Subdivisions: (6 members)
Cities; Counties; Townships; Park Districts; Apportionment.
- e. Transportation: (7 members)
Highways and Bridges; Railroads; Motor Vehicles; Airlines and Airports.

SECTION 7. AMENDMENT. Subsection 1 of Senate Rule 301 is amended as follows:

1. Prayer by the Chaplain and Pledge of Allegiance.

SEN. HOLMBERG MOVED that the report be adopted.

REQUEST

SEN. KLEIN REQUESTED a recorded roll call vote, which request was granted.

ROLL CALL

The question being on the motion to adopt the Procedural Rules Committee Report, the roll was called and there were 46 YEAS, 0 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Anderson; Armstrong; Axness; Bekkedahl; Bowman; Burckhard; Campbell; Carlisle; Casper; Cook; Davison; Dever; Dotzenrod; Erbele; Flakoll; Grabinger; Heckaman; Hogue; Holmberg; Kilzer; Klein; Krebsbach; Laffen; Larsen; Lee, G.; Lee, J.; Luick; Marcellais; Mathern; Murphy; Nelson; O'Connell; Oban; Oehlke; Poolman; Robinson; Rust; Schaible; Schneider; Sinner; Sorvaag; Triplett; Unruh; Wanzek; Wardner; Warner

ABSENT AND NOT VOTING: Miller

The motion prevailed on a recorded roll call vote.

REPORT OF PROCEDURAL COMMITTEE

MR. PRESIDENT: Your procedural **Committee on Committees (Sen. Wardner, Chairman)** recommends the following as chairman and members of standing committees.

2015 SENATE STANDING COMMITTEES

Appropriations Committee

Committee Chairman - Holmberg	Heckaman
Co-Vice Chairman - Bowman	Mathern
Co-Vice Chairman - Krebsbach	O'Connell
Carlisle	Robinson
Erbele	
Kilzer	
G. Lee	
Sorvaag	
Wanzek	

Education Committee

Committee Chairman - Flakoll	Marcellais
Vice Chairman - Rust	Oban
Schaible	
Davison	

Finance and Taxation Committee

Committee Chairman - Cook	Dotzenrod
Vice Chairman - Laffen	Triplett
Oehlke	
Unruh	
Bekkedahl	

Human Services Committee

Committee Chairman - J. Lee	Axness
Vice Chairman - Larsen	Warner
Anderson	
Dever	

Industry, Business and Labor Committee

Committee Chairman - Klein	Murphy
Vice Chairman - Campbell	Sinner
Burckhard	
Miller	
Poolman	

Judiciary Committee

Committee Chairman - Hogue	Nelson
Vice Chairman - Armstrong	Grabinger
Casper	
Luick	

Agriculture Committee

Committee Chairman - Miller	Oban
Vice Chairman - Luick	Warner
Klein	
Larsen	

Energy and Natural Resources Committee

Committee Chairman - Schaible	Murphy
Vice Chairman - Unruh	Triplett
Hogue	

Laffen
Armstrong

Government and Veterans Affairs Committee

Committee Chairman - Dever	Marcellais
Vice Chairman - Poolman	Nelson
Cook	
Flakoll	
Davison	

Political Subdivisions Committee

Committee Chairman - Burckhard	Dotzenrod
Vice Chairman - Anderson	Grabinger
J. Lee	
Bekkedahl	

Transportation Committee

Committee Chairman - Oehlke	Axness
Vice Chairman - Casper	Sinner
Campbell	
Rust	

SEN. WARDNER MOVED that the report be adopted, which motion prevailed on a voice vote.

MOTION

SEN. KLEIN MOVED that the absent member be excused and that Senate stand in recess until 9:55 a.m., at which time there will be a joint session in the House, after which the Senate will stand adjourned until 12:00 noon on Tuesday, January 6, 2015, which motion prevailed.

