

JOURNAL OF THE SENATE

Fifty-eighth Legislative Assembly

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Bismarck, January 23, 2003

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

The prayer was offered by Senator Dever.

The roll was called and all members were present.

A quorum was declared by the President.

MOTION

SEN. CHRISTMANN MOVED that SB 2247 be returned to the Senate floor from the **Government and Veterans Affairs Committee** for the purpose of withdrawal, which motion prevailed.

REQUEST

SEN. LINDAAS REQUESTED the unanimous consent of the Senate to withdraw SB 2247. There being no objection, it was so ordered by the President.

CONSIDERATION OF AMENDMENTS

SB 2114: SEN. HEITKAMP (Industry, Business and Labor Committee) MOVED that the amendments on SJ page 119 be adopted and then be placed on the Eleventh order.

CONSIDERATION OF AMENDMENTS

SB 2135: SEN. FLAKOLL (Education Committee) MOVED that the amendments on SJ page 120 be adopted with **DO PASS**, which motion prevailed.

MOTION

SEN. CHRISTMANN MOVED that Engrossed SB 2035 be rereferred to the **Appropriations Committee**, which motion prevailed. Pursuant to Sen. Christmann's motion, Engrossed SB 2035 was rereferred.

CONSIDERATION OF AMENDMENTS

SB 2179: SEN. ESPEGARD (Industry, Business and Labor Committee) MOVED that the amendments on SJ pages 120-121 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

SECOND READING OF SENATE BILL

SB 2043: A BILL for an Act to designate the offices responsible for restitution collection and enforcement activities.

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 47 YEAS, 0 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

YEAS: Andrist; Bercier; Bowman; Brown; Christenson; Christmann; Cook; Dever; Erbele; Espegard; Every; Fairfield; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Mutch; Nelson; Nothing; Nichols; O'Connell; Polovitz; Robinson; Schobinger; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

Engrossed SB 2043 passed and the title was agreed to.

SECOND READING OF SENATE BILL

SB 2157: A BILL for an Act to adopt the Uniform Athlete Agents Act, relating to the regulation of athlete agents; to repeal chapter 9-15 of the North Dakota Century Code, relating to the regulation of athlete agents; and to provide a penalty.

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 47 YEAS, 0 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

YEAS: Andrist; Bercier; Bowman; Brown; Christenson; Christmann; Cook; Dever; Erbele; Espegard; Every; Fairfield; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Mutch; Nelson; Nething; Nichols; O'Connell; Polovitz; Robinson; Schobinger; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

Engrossed SB 2157 passed and the title was agreed to.

SECOND READING OF SENATE BILL

SB 2057: A BILL for an Act to create and enact a new section to chapter 15-39.1 of the North Dakota Century Code, relating to the purchase of service credit by employers under the teachers' fund for retirement; and to amend and reenact subsection 9 of section 15-39.1-04, sections 15-39.1-10.3, 15-39.1-10.6, 15-39.1-15, 15-39.1-16, 15-39.1-18, 15-39.1-19.1, and 15-39.1-20, and subsection 11 of section 15-39.1-24 of the North Dakota Century Code, relating to definition of salary, dual membership, benefit limitations, withdrawal, benefit options, disability retirement, discontinuance of retirement benefits, and acceptance of rollovers under the teacher's fund for retirement.

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; Christenson; Christmann; Cook; Dever; Erbele; Espegard; Every; Fairfield; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Mutch; Nelson; Nething; Nichols; O'Connell; Polovitz; Robinson; Schobinger; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

SB 2057 passed and the title was agreed to.

SECOND READING OF SENATE BILL

SB 2144: A BILL for an Act to amend and reenact section 43-10.1-03.1 of the North Dakota Century Code, relating to depositing pre-need funeral contract payments.

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 1 YEA, 46 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

YEAS: Tallackson

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

SB 2144 lost.

SECOND READING OF SENATE BILL

SB 2165: A BILL for an Act to create and enact section 40-58-20.2 of the North Dakota Century Code, relating to establishment of a joint review board for approval of tax increment financing districts; to amend and reenact subsection 2 of section 40-58-01.1, subsections 1 and 8 of section 40-58-20, and section 40-58-20.1 of the North Dakota Century Code, relating to tax increment financing by cities; and to provide an effective date.

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 21 YEAS, 26 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

YEAS: Andrist; Bercier; Brown; Christenson; Cook; Erbele; Every; Fairfield; Fischer; Freborg; Heitkamp; Klein; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Lyson; Nelson; Schobinger; Trenbeath

NAYS: Bowman; Christmann; Dever; Espgaard; Flakoll; Grindberg; Holmberg; Kilzer; Krauter; Mathern; Mutch; Nething; Nichols; O'Connell; Polovitz; Robinson; Seymour; Stenehjerm; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Urlacher; Wardner

SB 2165 lost.

SECOND READING OF SENATE BILL

SB 2177: A BILL for an Act to amend and reenact section 15.1-21-03 of the North Dakota Century Code, relating to instructional time for high school units.

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; Christenson; Christmann; Cook; Dever; Erbele; Espgaard; Every; Fairfield; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Mutch; Nelson; Nething; Nichols; O'Connell; Polovitz; Robinson; Schobinger; Seymour; Stenehjerm; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

SB 2177 passed and the title was agreed to.

SECOND READING OF SENATE BILL

SB 2184: A BILL for an Act to amend and reenact section 26.1-26.4-04 of the North Dakota Century Code, relating to minimum standards for utilization review agents.

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; Christenson; Christmann; Cook; Dever; Erbele; Espgaard; Every; Fairfield; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Mutch; Nelson; Nething; Nichols; O'Connell; Polovitz; Robinson; Schobinger; Seymour; Stenehjerm; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

SB 2184 passed and the title was agreed to.

SECOND READING OF SENATE BILLS ON CONSENT CALENDAR

SB 2183: A BILL for an Act to amend and reenact section 6-06-21 of the North Dakota Century Code, relating to maintaining a reserve fund for state-chartered credit unions.

SB 2205: A BILL for an Act to amend and reenact section 26.1-03-16 of the North Dakota Century Code, relating to extension of the time for an insurance company to file a statement with the insurance commissioner.

ROLL CALL

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

YEAS: Andrist; Bercier; Bowman; Brown; Christenson; Christmann; Cook; Dever; Erbele; Espegard; Every; Fairfield; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Nelson; Nething; Nichols; O'Connell; Polovitz; Robinson; Schobinger; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

ABSENT AND NOT VOTING: Mutch

SB 2183 and SB 2205 passed and the titles were 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 2045.

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

MR. SPEAKER: The Senate has passed, the emergency clause carried, and your favorable consideration is requested on: SB 2084.

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

MR. PRESIDENT: The House has passed, the emergency clause carried, and your favorable consideration is requested on: HB 1138.

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

MR. PRESIDENT: The House has passed and your favorable consideration is requested on: HB 1087, HB 1122, HB 1176.

MOTION

SEN. CHRISTMANN MOVED that the Senate be on the Fifth, Ninth, and Thirteenth orders of business and at the conclusion of those orders, the Senate stand adjourned until 12:30 p.m., Friday, January 24, 2003, 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 referred to the **Appropriations Committee**.

REPORT OF STANDING COMMITTEE

SB 2054: Finance and Taxation Committee (Sen. Urlacher, Chairman) recommends **DO NOT PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2054 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2071: Judiciary Committee (Sen. Traynor, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, ABSENT AND NOT VOTING). SB 2071 was placed on the Sixth order on the calendar.

Page 2, line 11, replace "hundred eighty days" with "year"

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2164: Transportation Committee (Sen. Trenbeath, Chairman) recommends **DO NOT PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2164 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2169: Education Committee (Sen. Freborg, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2169 was placed on the Sixth order on the calendar.

Page 1, line 2, after "to" insert "prohibiting a school board from charging fees for textbooks and to"

Page 1, line 7, after "1." insert "A school board may not charge a fee for textbooks or other items necessary for completion of a specific course required for grade advancement or graduation."

2."

Page 2, line 13, overstrike "2." and insert immediately thereafter "3."

Page 2, line 15, overstrike "3." and insert immediately thereafter "4."

Page 2, line 21, overstrike "4." and insert immediately thereafter "5."

Page 2, line 23, overstrike "5." and insert immediately thereafter "6."

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2190: Political Subdivisions Committee (Sen. Cook, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2190 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2191: Transportation Committee (Sen. Trenbeath, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2191 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2204: Judiciary Committee (Sen. Traynor, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2204 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2206: Agriculture Committee (Sen. Flakoll, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2206 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2207: Transportation Committee (Sen. Trenbeath, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2207 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2220: Agriculture Committee (Sen. Flakoll, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2220 was placed on the Eleventh order on the calendar.

FIRST READING OF SENATE BILLS

Sens. Wardner, Bowman, O'Connell and Reps. Rennerfeldt, Wald, Warner introduced:

SB 2311: A BILL for an Act to create and enact a new chapter to title 54 and a new section to chapter 57-51.1 of the North Dakota Century Code, relating to creating and establishing an oil and gas research council and oil and gas research fund; and to provide a continuing appropriation.

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

Sens. Kringstad, Dever, Lyson and Reps. Dosch, Sitte introduced:

SB 2312: A BILL for an Act to provide for a manufactured home installation program.

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

Sen. Tallackson and Reps. Ekstrom, Mueller introduced:

SB 2313: A BILL for an Act to amend and reenact section 57-38-29 and subsection 1 of section 57-38-30.3 of the North Dakota Century Code, relating to individual income tax rates; to provide appropriations for foundation aid grants for school districts and to require reduction in property tax levies of school districts; and to provide an effective date.

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

Sens. Schobinger, Grindberg, Mutch, Tollefson and Reps. Ruby, Thoreson introduced:

SB 2314: A BILL for an Act to amend and reenact subsection 1 of section 6-09.8-01, subsection 1 of section 12.1-32-09, sections 25-04-16, 27-17-06, and 37-27-06, subsection 8 of section 40-63-01, sections 40-63-06 and 40-63-07, subsection 1 of

section 50-06.3-06, subsection 2 of section 52-06-30, paragraph 3 of subdivision b of subsection 15 of section 57-02-08, sections 57-35.3-01, 57-39.2-01, 57-39.2-02.1, 57-39.2-03.2, 57-39.2-04, 57-39.2-08.2, 57-39.2-26.1, 57-40.2-01, 57-40.2-02.1, 57-40.2-04, 57-40.2-05, 57-40.2-07, 57-40.2-09, 57-40.3-02, 57-40.5-02, and 65-04-26 of the North Dakota Century Code, relating to the rate and taxable or exempt status of sales under sales, use, motor vehicle excise, and aircraft excise taxes; to repeal chapter 10-30.1, sections 10-33-124, 40-57.1-04, 40-63-04, and 40-63-09, chapters 52-02.1, 57-38, 57-38.1, 57-38.3, 57-38.4, 57-38.5, and 57-38.6, and sections 57-39.2-03.6, 57-39.2-04.2, 57-39.2-04.3, 57-39.2-04.4, 57-39.2-06, 57-39.2-12.1, 57-39.2-28, 57-40.2-04.2, 57-40.2-07.1, and 57-59-02 of the North Dakota Century Code, relating to elimination of individual and corporate income taxes and the taxable or exempt status of sales under the sales, use, motor vehicle excise, and aircraft excise taxes; and to provide an effective date.

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

Sens. Stenehjem, Holmberg, Wardner and Reps. Belter, Grosz, Porter introduced:

SB 2315: A BILL for an Act to amend and reenact subsection 3 of section 57-36-09, subsection 4 of section 57-36-25, subsection 3 of section 57-36-26, subsection 1 of section 57-38-35.2, subsection 1 of section 57-38-45, subsection 1 of section 57-39.2-11, subdivision a of subsection 1 of section 57-39.2-18, subsection 1 of section 57-39.2-25, subdivision a of subsection 1 of section 57-40.2-15, subsection 2 of section 57-40.3-11, subsection 2 of section 57-40.5-10, subsection 1 of section 57-43.2-15, section 57-51-10, and section 57-51-19 of the North Dakota Century Code, relating to the rate of interest on underpayments of tobacco products tax, financial institutions tax, income tax, sales and use tax, motor vehicle excise tax, aviation excise tax, motor vehicle fuel tax, special fuels tax, oil and gas gross production tax, and oil extraction tax, and the rate of interest on overpayments of income tax, sales and use tax, and oil and gas gross production tax and oil extraction tax; and to provide an effective date.

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

Sens. Lindaas, Espegard, Holmberg and Reps. Delmore, Nottestad, Potter introduced:

SB 2316: A BILL for an Act to amend and reenact subsection 20 of section 54-52-01 and subsection 8 of section 54-52.6-01 of the North Dakota Century Code, relating to the definition of wages and salaries for purposes of the public employees retirement system; and to provide an appropriation.

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

Sen. Klein introduced:

SB 2317: A BILL for an Act relating to the duties and responsibilities of the superintendent of public instruction.

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

Sens. Espegard, Christenson, Holmberg and Rep. Glassheim introduced:

SB 2318: A BILL for an Act to amend and reenact section 54-02-11 of the North Dakota Century Code, relating to designation of the North Dakota art museum.

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

Sens. Nichols, Christmann, Lyson and Reps. Onstad, Rennerfeldt, Warner introduced:

SB 2319: A BILL for an Act amend and reenact section 19-18-04 of the North Dakota Century Code, relating to pesticide registration fees; and to provide an appropriation.

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

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

WILLIAM R. HORTON, Secretary