

## JOURNAL OF THE SENATE

## Fifty-eighth Legislative Assembly

\* \* \* \* \*

Bismarck, January 29, 2003

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

The prayer was offered by Pastor Bob Nordvall, Charity Lutheran, Bismarck.

The roll was called and all members were present.

A quorum was declared by the President.

## MOTION

**SEN. CHRISTMANN MOVED** that Engrossed SB 2163, which is on the Eleventh order, be rereferred to the **Judiciary Committee**, which motion prevailed. Pursuant to Sen. Christmann's motion, Engrossed SB 2163 was rereferred.

## MOTION

**SEN. CHRISTMANN MOVED** that SB 2302, which is on the Eleventh order, be laid over one legislative day, which motion prevailed.

## MOTION

**SEN. CHRISTMANN MOVED** that SB 2402 be returned to the Senate floor from the **Human Services Committee** for the purpose of withdrawal, which motion prevailed.

## REQUEST

**SEN. CHRISTMANN REQUESTED** the unanimous consent of the Senate to withdraw SB 2402. There being no objection, it was so ordered by the President.

## MOTION

**SEN. CHRISTMANN MOVED** that the rules be suspended and a bill for an Act to amend and reenact subsection 6 of section 43-12.1-08 of the North Dakota Century Code, relating to powers and duties of the board of nursing be introduced as SB 2413. SB 2413 will be introduced by Sen. Fischer. The motion prevailed.

## CONSIDERATION OF AMENDMENTS

**SB 2147: SEN. TRENBEATH (Judiciary Committee) MOVED** that the amendments on SJ page 170 be adopted and then be **REREFERRED** to the **Appropriations Committee** with **DO PASS**, which motion prevailed.

## CONSIDERATION OF AMENDMENTS

**SB 2171: SEN. BROWN (Government and Veterans Affairs Committee) MOVED** that the amendments on SJ pages 170-171 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

## CONSIDERATION OF AMENDMENTS

**SB 2235: SEN. EVERY (Industry, Business and Labor Committee) MOVED** that the amendments on SJ page 171 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

## SECOND READING OF SENATE BILL

**SB 2078: A BILL** for an Act to amend and reenact subsection 1 of section 44-08-04.2 and sections 44-08-04.5, 44-08-05.1, and 54-06-06 of the North Dakota Century Code, relating to travel advances, direct payment of lodging expenses, payment approval requirements, and periodic salary payments for state employees; and to repeal sections 44-08-08 and 54-06-16 of the North Dakota Century Code, relating to per diem oath and penalty and minimum wage for state employees.

## 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; 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; Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

Engrossed SB 2078 passed and the title was agreed to.

\*\*\*\*\*

#### SECOND READING OF SENATE BILL

**SB 2118:** A BILL for an Act to amend and reenact sections 1-02-35, 54-11-01, and 54-11-04 of the North Dakota Century Code, relating to warrants, duties, and records of the state treasurer; and to repeal section 54-11-03 of the North Dakota Century Code, relating to the redemption of warrants by the state treasurer.

#### 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 2118 passed and the title was agreed to.

\*\*\*\*\*

#### SECOND READING OF SENATE BILL

**SB 2064:** A BILL for an Act to amend and reenact section 54-23.2-09 of the North Dakota Century Code, relating to state radio communications collection of 911 service fees for wireless access lines; and to declare an emergency.

#### 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 2064 passed, the title was agreed to, and the emergency clause was declared carried.

\*\*\*\*\*

#### SECOND READING OF SENATE BILL

**SB 2073:** A BILL for an Act to amend and reenact subsection 8 of section 45-10.1-01 and subsection 1 of section 45-10.1-52 of the North Dakota Century Code, relating to registration of foreign limited partnerships; to provide for retroactive application; and to declare an emergency.

#### 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 2073 passed, the title was agreed to, and the emergency clause was declared carried.

\*\*\*\*\*

### SECOND READING OF SENATE BILL

**SB 2093:** A BILL for an Act to amend and reenact section 30.1-20-14 of the North Dakota Century Code, relating to the disposition of unclaimed assets in probate.

### 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 2093 passed and the title was agreed to.

\*\*\*\*\*

### SECOND READING OF SENATE BILL

**SB 2107:** A BILL for an Act to create and enact a new section to chapter 54-44.3 of the North Dakota Century Code, relating to confidentiality of central personnel division mediation service records.

### 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 2107 passed and the title was agreed to.

\*\*\*\*\*

### SECOND READING OF SENATE BILL

**SB 2170:** A BILL for an Act to prohibit resisting service of process; and to provide a penalty.

### 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:** Holmberg

**NAYS:** Andrist; Bercier; Bowman; Brown; Christenson; Christmann; Cook; Dever; Erbele; Espegard; Every; Fairfield; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; 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 2170 lost.

\*\*\*\*\*

### SECOND READING OF SENATE BILL

**SB 2245:** A BILL for an Act to create and enact a new section to chapter 50-09 of the North Dakota Century Code, relating to disclosure of the identity of child support obligors.

**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 43 YEAS, 4 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

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

**NAYS:** Bercier; Christenson; Fairfield; Nelson

SB 2245 passed and the title was agreed to.

\*\*\*\*\*

**SECOND READING OF SENATE BILL**

**SB 2265:** A BILL for an Act to create and enact a new section to chapter 15-10 of the North Dakota Century Code, relating to meetings of the state board of higher education.

**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 19 YEAS, 28 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bercier; Bowman; Christenson; Erbele; Every; Fairfield; Fischer; Grindberg; Heitkamp; Krauter; Lee, J.; Mathern; Nichols; Polovitz; Schobinger; Syverson; Tollefson; Urlacher

**NAYS:** Brown; Christmann; Cook; Dever; Espegard; Flakoll; Freborg; Holmberg; Kilzer; Klein; Krebsbach; Kringstad; Lee, G.; Lindaas; Lyson; Mutch; Nelson; Nething; O'Connell; Robinson; Seymour; Stenehjem; Tallackson; Taylor; Thane; Traynor; Trenbeath; Wardner

SB 2265 lost.

\*\*\*\*\*

**SECOND READING OF SENATE BILL**

**SB 2274:** A BILL for an Act to amend and reenact sections 10-30.5-05 and 54-34.3-05 of the North Dakota Century Code, relating to the duties of the director of the department of commerce division of economic development and finance.

**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 2274 passed and the title was agreed to.

\*\*\*\*\*

**SECOND READING OF SENATE CONCURRENT RESOLUTION**

**SCR 4006:** A concurrent resolution commending the volunteers and staff of the Dollars for Scholars program for being selected to establish a state office and commending the 7,500 young North Dakota scholarship recipients for their hard work and dedication to the pursuit of education.

The question being on the final passage of the resolution, which has been read, and has committee recommendation of DO PASS.

SCR 4006 was declared adopted, and the title was agreed to on a voice vote.

\*\*\*\*\*

**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 2046, SB 2053, SB 2131, SB 2138, SB 2187, SB 2188, SB 2199, SB 2201, SB 2218, SB 2267.

**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 1064, HB 1116, HB 1129, HB 1160, HB 1296, HB 1316.

**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 1233.

**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 1:00 p.m., Thursday, January 30, 2003, which motion prevailed.

**REPORT OF STANDING COMMITTEE**

**SB 2042: 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 2042 was placed on the Sixth order on the calendar.

In lieu of the amendments to Senate Bill No. 2042 as printed on page 95 (Day 9) of the Senate Journal, Senate Bill No. 2042 is amended as follows:

Page 1, line 1, remove "provide for use of school district and higher education videoconferencing"

Page 1, line 2, remove "facilities and services; and to"

Page 2, line 6, overstrike the second "or" and insert immediately thereafter "of an"

Page 2, line 17, after the semicolon insert "and"

Page 2, line 21, overstrike "; and"

Page 2, line 22, remove "(6)", overstrike "Educational, governmental, and", remove "other", and overstrike "users of system or"

Page 2, overstrike line 23

Page 2, line 24, overstrike "network services"

Page 2, line 29, replace "others" with "the entities identified in subdivision j of subsection 1"

Page 3, remove lines 3 through 8

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**SB 2103: Judiciary Committee (Sen. Traynor, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2103 was placed on the Sixth order on the calendar.

Page 1, line 8, after "fee" insert "from the state fire and tornado fund or the petroleum tank release compensation fund, based on the fund that insures the requesting entity,"

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**SB 2128: Appropriations Committee (Sen. Holmberg, Chairman)** recommends **DO PASS** (14 YEAS, 0 NAYS, ABSENT AND NOT VOTING). SB 2128 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2148: Judiciary Committee (Sen. Traynor, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2148 was placed on the Sixth order on the calendar.

Page 1, line 1, after "Act" insert "to create and enact a new subsection to section 53-06.1-12.3 of the North Dakota Century Code, relating to installment payments on delinquent taxes or penalties; and"

Page 15, after line 13, insert:

**"SECTION 9.** A new subsection to section 53-06.1-12.3 of the North Dakota Century Code is created and enacted as follows:

The attorney general may authorize an organization to pay any delinquent tax, interest, or penalty on an installment plan and may set any qualifying conditions."

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**SB 2172: Finance and Taxation Committee (Sen. Urlacher, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2172 was placed on the Sixth order on the calendar.

Page 2, line 12, remove "Reduced by any amount, up to a maximum of one thousand dollars, received"

Page 2, remove lines 13 through 22

Page 2, line 23, remove "h."

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**SB 2173: Finance and Taxation Committee (Sen. Urlacher, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2173 was placed on the Sixth order on the calendar.

Page 1, line 1, remove "and subsection 29"

Page 1, line 2, remove "of section 57-15-06.7" and remove "property tax levy authority"

Page 1, line 3, remove "for"

Page 2, line 18, remove the overstrike over "~~limitation~~" and remove "limitations"

Page 2, line 21, after "any" insert "designated portion of the"

Page 2, remove lines 29 and 30

Page 3, remove lines 1 through 13

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**SB 2185: Judiciary Committee (Sen. Traynor, Chairman)** recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2185 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2210: Judiciary Committee (Sen. Traynor, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2210 was placed on the Sixth order on the calendar.

Page 1, line 2, after "coverage" insert "; and to provide for application"

Page 2, line 24, replace "A" with "An"

Page 3, after line 25, insert:

**"SECTION 2. APPLICATION.** Notwithstanding any legislative measure approved by the fifty-eighth legislative assembly which could affect the application or expiration of this Act, this Act applies as of August 1, 2003, and does not expire until specifically repealed by the legislative assembly."

Renumber accordingly

#### **REPORT OF STANDING COMMITTEE**

**SB 2211: Judiciary Committee (Sen. Traynor, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). SB 2211 was placed on the Sixth order on the calendar.

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

Page 1, after line 22, insert:

**"SECTION 2. EMERGENCY.** This Act is declared to be an emergency measure."

Renumber accordingly

#### **REPORT OF STANDING COMMITTEE**

**SB 2217: Human Services Committee (Sen. J. Lee, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (4 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2217 was placed on the Sixth order on the calendar.

Page 1, line 10, replace "recognized" with "as required" and remove "American dental association"

Renumber accordingly

#### **REPORT OF STANDING COMMITTEE**

**SB 2226: Finance and Taxation Committee (Sen. Urlacher, Chairman)** recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2226 was rereferred to the **Appropriations Committee**.

#### **FIRST READING OF SENATE BILL**

Sen. Fischer introduced:

**SB 2413:** A BILL for an Act to amend and reenact subsection 6 of section 43-12.1-08 of the North Dakota Century Code, relating to powers and duties of the board of nursing.

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

#### **FIRST READING OF SENATE CONCURRENT RESOLUTIONS**

Sens. Christmann, Stenehjem, Wardner and Reps. Belter, Carlson, Timm introduced:

**SCR 4015:** A concurrent resolution to create and enact a new section to article IV of the Constitution of North Dakota, relating to the vote required to enact an income, sales, use, or motor vehicle excise tax increase by the legislative assembly.

Was read the first time and referred to the **Joint Constitutional Revision Committee**.

Sen. Nichols introduced:

**SCR 4016:** A concurrent resolution directing the Legislative Council to study those provisions of North Dakota Century Code Title 4 which relate to the powers and duties of the State Seed Commissioner and the State Seed Department.

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

Sens. Stenehjem, Andrist, Heitkamp and Reps. Belter, Boucher, Brusegaard introduced:

**SCR 4017:** A concurrent resolution for the amendment of section 18 of article X of the Constitution of North Dakota, relating to the giving of credit or donations by the state and political subdivisions.

Was read the first time and referred to the **Joint Constitutional Revision Committee**.

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

**WILLIAM R. HORTON, Secretary**