

## JOURNAL OF THE SENATE

## Fifty-ninth Legislative Assembly

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Bismarck, February 2, 2005

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

The prayer was offered by Pastor Carl Lindemann, Our Saviour's Evangelical Lutheran Church, Bismarck.

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

A quorum was declared by the President.

## CONSIDERATION OF AMENDMENTS

**SB 2042: SEN. G. LEE (Education Committee) MOVED** that the amendments on SJ pages 237-238 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

## CONSIDERATION OF AMENDMENTS

**SB 2026: SEN. COOK (Political Subdivisions Committee) MOVED** that the amendments on SJ page 237 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

## CONSIDERATION OF AMENDMENTS

**SB 2246: SEN. HEITKAMP (Industry, Business and Labor Committee) MOVED** that the amendments on SJ page 242 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

## CONSIDERATION OF AMENDMENTS

**SB 2168: SEN. G. LEE (Education Committee) MOVED** that the amendments on SJ page 240 be adopted with **DO PASS**, which motion prevailed. The President ruled that SB 2168, as amended, be **REREFERRED** to the **Appropriations Committee**.

## CONSIDERATION OF AMENDMENTS

**SB 2147: SEN. TAYLOR (Agriculture Committee) MOVED** that the amendments on SJ pages 238-240 be adopted and then be **REREFERRED** to the **Appropriations Committee** with **DO PASS**, which motion prevailed.

## CONSIDERATION OF AMENDMENTS

**SB 2213: SEN. DEVER (Human Services Committee) MOVED** that the amendments on SJ page 241 be adopted and then be **REREFERRED** to the **Appropriations Committee** with **DO PASS**, which motion prevailed.

## CONSIDERATION OF AMENDMENTS

**SB 2247: SEN. BROWN (Government and Veterans Affairs Committee) MOVED** that the amendments on SJ page 242 be adopted and then be **REREFERRED** to the **Appropriations Committee** with **DO PASS**, which motion prevailed.

## CONSIDERATION OF AMENDMENTS

**SB 2323: SEN. BROWN (Human Services Committee) MOVED** that the amendments on SJ page 242 be adopted and then be **REREFERRED** to the **Appropriations Committee** with **DO PASS**, which motion prevailed.

## CONSIDERATION OF AMENDMENTS

**SCR 4019: SEN. TAYLOR (Education Committee) MOVED** that the amendments on SJ page 243 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

## CONSIDERATION OF AMENDMENTS

**SB 2215: SEN. FAIRFIELD (Industry, Business and Labor Committee) MOVED** that the amendments on SJ page 241 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

**SECOND READING OF SENATE BILL**

**SB 2154:** A BILL for an Act to amend and reenact sections 24-02-01.5, 39-24-01, 39-24-04, and 39-24-05 of the North Dakota Century Code, relating to collector snowmobiles.

**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 46 YEAS, 0 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bercier; Bowman; Brown; Christmann; Cook; Dever; Erbele; Espesgaard; 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; Taylor; Thane; Tollefson; Traynor; Trenbeath; Triplett; Urlacher; Wardner; Warner

**ABSENT AND NOT VOTING:** Tallackson

Engrossed SB 2154 passed and the title was agreed to.

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**SECOND READING OF SENATE BILL**

**SB 2150:** A BILL for an Act to amend and reenact sections 54-17.2-01, 54-17.2-02.1, and 54-17.2-02.2, subsections 1 and 7 of section 54-17.2-03, and sections 54-17.2-04, 54-17.2-06, 54-17.2-07, 54-17.2-08, 54-17.2-09, 54-17.2-10, 54-17.2-11, 54-17.2-16, and 54-17.2-19 of the North Dakota Century Code, relating to financing by the building authority of projects authorized by the legislative assembly.

**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 26 YEAS, 20 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Bercier; Espesgaard; Every; Fairfield; Fischer; Hacker; Heitkamp; Holmberg; Klein; Krauter; Krebsbach; Kringstad; Lee, J.; Lindaas; Lyson; Mathern; Nelson; O'Connell; Robinson; Seymour; Taylor; Tollefson; Traynor; Trenbeath; Triplett; Wardner

**NAYS:** Andrist; Bowman; Brown; Christmann; Cook; Dever; Erbele; Flakoll; Freborg; Grindberg; Kilzer; Lee, G.; Mutch; Nething; Schobinger; Stenehjem; Syverson; Thane; Urlacher; Warner

**ABSENT AND NOT VOTING:** Tallackson

Engrossed SB 2150 passed and the title was agreed to.

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**SECOND READING OF SENATE BILL**

**SB 2193:** A BILL for an Act to create and enact a new section to chapter 57-38 of the North Dakota Century Code, relating to income tax withholding from certain pension payments; and to provide an effective date.

**ROLL CALL**

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO NOT PASS, the roll was called and there were 1 YEA, 45 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Mathern

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

**ABSENT AND NOT VOTING:** Tallackson

Engrossed SB 2193 lost.

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**SECOND READING OF SENATE BILL**

**SB 2239:** A BILL for an Act to create and enact a new section to chapter 9-01, three new sections to chapter 47-05, and a new section to chapter 47-16 of the North Dakota Century Code, relating to wind option agreements, easements, and leases.

**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 46 YEAS, 0 NAYS, 0 EXCUSED, 1 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; Stenehjerm; Syverson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Triplett; Urlacher; Wardner; Warner

**ABSENT AND NOT VOTING:** Tallackson

Engrossed SB 2239 passed and the title was agreed to.

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**SECOND READING OF SENATE BILL**

**SB 2280:** A BILL for an Act to create and enact eighteen new sections to chapter 63-01.1 of the North Dakota Century Code, relating to the control of eradication of noxious weeds and pests; to amend and reenact subsection 1 of section 4-33-11, and sections 63-01.1-01, 63-01.1-02, 63-01.1-03, 63-01.1-03.1, 63-01.1-04, 61-01.1-04.1, 61-03.1-05, 63-01.1-05.1, 63-01.1-06, 63-01.1-08, 63-01.1-09, 63-01.1-10.1, 63-01.1-12, 63-01.1-12.1, 63-01.1-12.2, 63-01.1-13, 63-01.1-14, and 63-01.1-15 of the North Dakota Century Code, relating to the control and eradication of noxious weeds and pests; and to repeal section 63-01.1-04.2 of the North Dakota Century Code, relating to pest control by county weed boards.

**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 46 YEAS, 0 NAYS, 0 EXCUSED, 1 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; Stenehjerm; Syverson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Triplett; Urlacher; Wardner; Warner

**ABSENT AND NOT VOTING:** Tallackson

Engrossed SB 2280 passed and the title was agreed to.

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**SECOND READING OF SENATE BILL**

**SB 2309:** A BILL for an Act to amend and reenact section 10-13-06 of the North Dakota Century Code, relating to the distribution of electric cooperative capital credits.

**ROLL CALL**

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO NOT PASS, the roll was called and there were 21 YEAS, 25 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bowman; Cook; Dever; Fischer; Flakoll; Freborg; Grindberg; Kilzer; Kringstad; Lee, G.; Lee, J.; Lyson; Mutch; Schobinger; Stenehjerm; Syverson; Tollefson; Traynor; Trenbeath; Urlacher

**NAYS:** Bercier; Brown; Christmann; Erbele; Espegard; Every; Fairfield; Hacker; Heitkamp; Holmberg; Klein; Krauter; Krebsbach; Lindaas; Mathern; Nelson; Nething; O'Connell; Robinson; Seymour; Taylor; Thane; Triplett; Wardner; Warner

**ABSENT AND NOT VOTING:** Tallackson

Engrossed SB 2309 lost.

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**SECOND READING OF SENATE BILL**

**SB 2322:** A BILL for an Act to amend and reenact section 47-10.1-02 of the North Dakota Century Code, relating to restrictions on the acquisition of agricultural land.

**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 45 YEAS, 1 NAY, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bercier; Bowman; Brown; Christmann; Cook; Dever; Erbele; Espgaard; Every; 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; Taylor; Thane; Tollefson; Traynor; Trenbeath; Triplett; Urlacher; Wardner; Warner

**NAYS:** Fairfield

**ABSENT AND NOT VOTING:** Tallackson

Engrossed SB 2322 passed and the title was agreed to.

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**SECOND READING OF SENATE BILL**

**SB 2090:** A BILL for an Act to amend and reenact subsection 13 of section 49-21-01.7 of the North Dakota Century Code, relating to powers of the public service commission relating to lifeline and link-up universal service offerings; 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 NOT PASS, the roll was called and there were 4 YEAS, 42 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Bercier; Every; Fairfield; Mathern

**NAYS:** Andrist; Bowman; Brown; Christmann; Cook; Dever; Erbele; Espgaard; Fischer; Flakoll; Freborg; Grindberg; Hacker; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Lyson; Mutch; Nelson; Nething; O'Connell; Robinson; Schobinger; Seymour; Stenehjem; Syverson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Triplett; Urlacher; Wardner; Warner

**ABSENT AND NOT VOTING:** Tallackson

SB 2090 lost.

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**MOTION**

**SEN. STENEHJEM MOVED** that SB 2187, which is on the Eleventh order, be rereferred to the **Appropriations Committee**, which motion prevailed. Pursuant to Sen. Stenehjem's motion, SB 2187 was rereferred.

**MOTION**

**SEN. STENEHJEM MOVED** that SB 2222, which is on the Eleventh order, be rereferred to the **Education Committee**, which motion prevailed. Pursuant to Sen. Stenehjem's motion, SB 2222 was rereferred.

**SECOND READING OF SENATE BILL**

**SB 2363:** A BILL for an Act to amend and reenact subsection 1 of section 12.1-28-01 of the North Dakota Century Code, relating to the definition of gambling.

**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, 3 NAYS, 0 EXCUSED, 1 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; Nelson; O'Connell; Robinson; Schobinger; Seymour; Stenehjem; Syverson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Triplett; Wardner; Warner

**NAYS:** Mutch; Nething; Urlacher

**ABSENT AND NOT VOTING:** Tallackson

SB 2363 passed and the title was agreed to.

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### SECOND READING OF SENATE BILL

**SB 2223:** A BILL for an Act to create the nico-ed fund and to provide for the distribution of interest income and other moneys from the nico-ed fund; to amend and reenact sections 54-27-25 and 57-36-31 of the North Dakota Century Code, relating to the distribution of tobacco settlement moneys and tobacco tax revenue; and to provide a continuing appropriation.

### 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, 45 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Thane

**NAYS:** 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; Taylor; Tollefson; Traynor; Trenbeath; Triplett; Urlacher; Wardner; Warner

**ABSENT AND NOT VOTING:** Tallackson

SB 2223 lost.

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### SECOND READING OF SENATE BILL

**SB 2230:** A BILL for an Act to amend and reenact section 65-02-03.1 of the North Dakota Century Code, relating to appointment of legislative assembly members on the workforce safety and insurance board of directors.

### 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 15 YEAS, 31 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Bercier; Christmann; Every; Fairfield; Heitkamp; Krauter; Lindaas; Mathern; Nelson; O'Connell; Robinson; Seymour; Taylor; Triplett; Warner

**NAYS:** Andrist; Bowman; Brown; Cook; Dever; Erbele; Espegard; Fischer; Flakoll; Freborg; Grindberg; Hacker; Holmberg; Kilzer; Klein; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lyson; Mutch; Nething; Schobinger; Stenehjem; Syverson; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

**ABSENT AND NOT VOTING:** Tallackson

SB 2230 lost.

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### SECOND READING OF SENATE BILL

**SB 2249:** A BILL for an Act to amend and reenact sections 51-07-27, 51-18-01, 51-18-04.2, 51-18-04.3, 51-18-09, and 51-28-06 of the North Dakota Century Code, relating to restrictions on electronically printed credit card receipts, regulation of home solicitation sales, and prohibited telephone solicitations; 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 PASS, the roll was called and there were 46 YEAS, 0 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

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

**ABSENT AND NOT VOTING:** Tallackson

SB 2249 passed and the title was agreed to.

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**SECOND READING OF SENATE BILL**

**SB 2299:** A BILL for an Act to create and enact a new subsection to section 57-39.2-04 of the North Dakota Century Code, relating to a sales and use tax exemption for United States and North Dakota flags; 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 6 YEAS, 40 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Dever; Flakoll; Lee, G.; Lyson; Tollefson; Traynor

**NAYS:** Andrist; Bercier; Bowman; Brown; Christmann; Cook; Erbele; Espesgard; Every; Fairfield; Fischer; Freborg; Grindberg; Hacker; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, J.; Lindaas; Mathern; Mutch; Nelson; Nothing; O'Connell; Robinson; Schobinger; Seymour; Stenehjerm; Syverson; Taylor; Thane; Trenbeath; Triplett; Urlacher; Wardner; Warner

**ABSENT AND NOT VOTING:** Tallackson

SB 2299 lost.

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**SECOND READING OF SENATE BILL**

**SB 2306:** A BILL for an Act to create and enact a new section to chapter 6-09 of the North Dakota Century Code, relating to capitalization requirements of the Bank of North Dakota.

**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 5 YEAS, 41 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Fairfield; Mathern; Nelson; Seymour; Warner

**NAYS:** Andrist; Bercier; Bowman; Brown; Christmann; Cook; Dever; Erbele; Espesgard; Every; Fischer; Flakoll; Freborg; Grindberg; Hacker; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Lyson; Mutch; Nothing; O'Connell; Robinson; Schobinger; Stenehjerm; Syverson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Triplett; Urlacher; Wardner

**ABSENT AND NOT VOTING:** Tallackson

SB 2306 lost.

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**SECOND READING OF SENATE BILL**

**SB 2310:** A BILL for an Act to amend and reenact subsection 6 of section 14-09-25 and section 28-20-34 of the North Dakota Century Code, relating to the interest on unpaid child support obligations.

**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 4 YEAS, 42 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Bercier; Fairfield; Fischer; Seymour

**NAYS:** Andrist; Bowman; Brown; Christmann; Cook; Dever; Erbele; Espegard; Every; Flakoll; Freborg; Grindberg; Hacker; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Mutch; Nelson; Nothing; O'Connell; Robinson; Schobinger; Stenehjerm; Syverson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Triplett; Urlacher; Wardner; Warner

**ABSENT AND NOT VOTING:** Tallackson

SB 2310 lost.

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**SECOND READING OF SENATE BILL**

**SB 2328:** A BILL for an Act to create and enact a new section to chapter 15.1-06 of the North Dakota Century Code, relating to a limitation on the sale of certain beverages on school property.

**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 17 YEAS, 29 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Bercier; Brown; Fairfield; Heitkamp; Holmberg; Krauter; Lee, J.; Mathern; Mutch; Nelson; Nothing; Seymour; Syverson; Thane; Tollefson; Triplett; Warner

**NAYS:** Andrist; Bowman; Christmann; Cook; Dever; Erbele; Espegard; Every; Fischer; Flakoll; Freborg; Grindberg; Hacker; Kilzer; Klein; Krebsbach; Kringstad; Lee, G.; Lindaas; Lyson; O'Connell; Robinson; Schobinger; Stenehjerm; Taylor; Traynor; Trenbeath; Urlacher; Wardner

**ABSENT AND NOT VOTING:** Tallackson

SB 2328 lost.

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**SECOND READING OF SENATE CONCURRENT RESOLUTION**

**SCR 4015:** A concurrent resolution commending Maury Wills on his major league baseball career and urging the Committee on Baseball Veterans of the Baseball Hall of Fame to elect Maury Wills to the Baseball Hall of Fame.

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

SCR 4015 was declared adopted, and the title was agreed to on a voice vote.

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**MOTION**

**SEN. STENEHJEM MOVED** that Joint Rule 702 be suspended, that the Senate be in recess on Monday and Tuesday, February 21 and 22, and that the House of Representatives be notified of this action. The motion prevailed.

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

**MR. SPEAKER:** The Senate wishes to inform the House that the Senate has voted to suspend Joint Rule 702, and that the Senate will be in recess on Monday and Tuesday, February 21 and 22, 2005.

**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 2024, SB 2101, SB 2113, SB 2161, SB 2185, SB 2202, SB 2218, SB 2262, SB 2263, SB 2275, SB 2294, SB 2354, SCR 4003, SCR 4005.

**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 2326.

**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 1129, HB 1176, HB 1209, HB 1288, HB 1376, HB 1430, HB 1434, HB 1442, HB 1452, HB 1491, HB 1504.

**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 1274.

**MOTION**

**SEN. STENEHJEM MOVED** that the absent member be excused, which motion prevailed.

**MOTION**

**SEN. STENEHJEM 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 8:00 a.m., Friday, February 4, 2005, which motion prevailed.

**REPORT OF STANDING COMMITTEE**

**SB 2054: Finance and Taxation Committee (Sen. Urlacher, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (4 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2054 was placed on the Sixth order on the calendar.

Page 1, line 7, replace "nonprescription" with "over-the-counter" and remove "and health products"

Page 1, line 8, remove ", prepackaged for use by consumers, and labeled in"

Page 1, line 9, remove "accordance with the requirements of state and federal law"

Page 1, line 10, replace "nonprescription" with "over-the-counter", remove "and health products", and replace "means" with "must be prepackaged with Drug Facts panel or statement of the active ingredients with a list of those ingredients contained in the compound, substance, or preparation, and includes"

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**SB 2055: Finance and Taxation Committee (Sen. Urlacher, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (4 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2055 was placed on the Sixth order on the calendar.

Page 1, line 11, remove ", without regard to whether the taxpayer claimed this federal income tax"

Page 1, line 12, remove the first "credit"

Page 1, line 23, after the period insert "The credit under this section is not available to taxpayers claiming a credit under section 57-38-01.20."

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**SB 2085: Industry, Business and Labor Committee (Sen. Mutch, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2085 was placed on the Sixth order on the calendar.

Page 1, line 2, remove "biennial"

Page 1, line 23, remove "No more than one performance audit may be requested or performed pursuant to"

Page 2, remove lines 1 and 2



Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**SB 2094: Industry, Business and Labor Committee (Sen. Mutch, Chairman)** recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2094 was placed on the Eleventh order on the calendar.

#### REPORT OF STANDING COMMITTEE

**SB 2169: Human Services Committee (Sen. J. Lee, Chairman)** recommends **DO NOT PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2169 was placed on the Eleventh order on the calendar.

#### REPORT OF STANDING COMMITTEE

**SB 2192: Human Services Committee (Sen. J. Lee, Chairman)** recommends **DO NOT PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2192 was placed on the Eleventh order on the calendar.

#### REPORT OF STANDING COMMITTEE

**SB 2231: Industry, Business and Labor Committee (Sen. Mutch, Chairman)** recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2231 was placed on the Eleventh order on the calendar.

#### REPORT OF STANDING COMMITTEE

**SB 2232: 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 2232 was placed on the Sixth order on the calendar.

Page 1, line 2, after "sections" insert "28-23-04, 28-24-02,"

Page 1, line 5, after "32-19-41" insert "and subdivision a of subsection 1 of section 35-03-19"

Page 1, line 8, after "32-19-34" insert "and chapter 32-19.1"

Page 1, after line 9, insert:

**"SECTION 1. AMENDMENT.** Section 28-23-04 of the North Dakota Century Code is amended and reenacted as follows:

**28-23-04. Sale of real property - Notice of sale - Contents.** Before any real property or interest therein taken on execution may be sold, the officer making the sale shall give public notice of the time and place of the sale:

1. If a newspaper is printed in the county where the real property to be sold is situated, the notice must be given by advertisement in a newspaper printed in the county once a week for three successive weeks, the last publication to be at least ten days prior to the making of the sale; and
2. In case no newspaper is printed in the county, then the officer making the sale shall cause the advertisement to be made by posting a copy of the advertisement on the outer door of the courthouse or building where the district court of the county was last held, and in five other public places in the county.

Except for parties who have an ownership interest in the real property subject to foreclosure of a mortgage under chapter 32-19 ~~or 32-19-4~~, the names of all defendants may be omitted from the public notice. If the names of the nonowner defendants are omitted, a copy of the public notice must be mailed to all defendants whose names are omitted at least ten days prior to the date of the sale. Service by mail is complete upon mailing. All sales made without notice as provided in this section must be set aside by the court to which the execution is returnable, upon motion to confirm the sale.

**SECTION 2. AMENDMENT.** Section 28-24-02 of the North Dakota Century Code is amended and reenacted as follows:

**28-24-02. Payment on and period of redemption.** The judgment debtor or redemptioner may redeem the property from the purchaser within one year ~~(six months in redemptions under subsection 1 of section 32-19.1-04)~~ after the sale on paying the purchaser the amount of the purchase with interest at the rate provided in the original instrument on which the judgment is based, plus the amount of any insurance

premiums, assessments, taxes, utilities, or other items paid by the purchaser in protection of the title or the premises, which the purchaser may have paid after the purchase, and interest at the same rate on that amount, and, if the purchaser is also a creditor having a lien superior to that of the redemptioner other than the judgment under which the purchase was made, the amount of that lien with interest."

Page 6, line 25, after "fair" insert "market"

Page 6, line 26, after the first "fair" insert "market" and replace "determination of the fair value must be submitted to a jury" with "court"

Page 6, line 27, remove "and a deficiency judgment", replace "be rendered" with "render a deficiency judgment", after "fair" insert "market", replace "is" with "as", and replace "jury" with "court"

Page 6, line 28, replace the first "to be" with "is"

Page 6, line 29, after "fair" insert "market"

Page 6, line 30, after "fair" insert "market"

Page 7, line 2, after the underscored period insert "As used in this section, "fair market value" means the most probable price that real property can be sold for in the open market by a willing seller to a willing buyer, neither acting under compulsion and both exercising reasonable judgment."

Page 9, line 16, after "the" insert "filing of the summons and complaint in the office of the clerk of district court or the time of the first publication of the notice by advertisement. The final date for redemption of agricultural land may not be earlier than sixty days after the"

Page 10, line 14, after "mail" insert ", as provided in rule 4 of the Rules of Civil Procedure,"

Page 10, line 18, after "mail" insert ", as provided in rule 4 of the Rules of Civil Procedure,"

Page 11, line 5, after "mail" insert ", as provided in rule 4 of the Rules of Civil Procedure,"

Page 14, after line 24, insert:

**"SECTION 29. AMENDMENT.** Subdivision a of subsection 1 of section 35-03-19 of the North Dakota Century Code is amended and reenacted as follows:

- a. "Mortgage" means a mortgage or mortgage lien ~~governed by the Short term Mortgage Redemption Act as provided in chapter 32-19.1~~ covering an interest in real property in this state given to secure a loan in the original principal amount of five hundred thousand dollars or less."

Page 14, line 26, after "32-19-34" insert ", and chapter 32-19.1"

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**SB 2233: Human Services Committee (Sen. J. Lee, Chairman)** recommends **DO NOT PASS** (4 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). SB 2233 was placed on the Eleventh order on the calendar.

#### REPORT OF STANDING COMMITTEE

**SB 2251: 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 2251 was placed on the Sixth order on the calendar.

Page 1, after line 21, insert:

- "j. An individual's birth, death, or marriage certificate."

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**SB 2261: Judiciary Committee (Sen. Traynor, Chairman)** recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2261 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2284: Human Services Committee (Sen. J. Lee, Chairman)** recommends **DO NOT PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2284 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2289: Human Services Committee (Sen. J. Lee, Chairman)** recommends **DO NOT PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2289 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2337: Human Services Committee (Sen. J. Lee, Chairman)** recommends **DO NOT PASS** (4 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). SB 2337 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2347: Industry, Business and Labor Committee (Sen. Mutch, Chairman)** recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2347 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2394: Human Services Committee (Sen. J. Lee, Chairman)** recommends **DO NOT PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2394 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2405: Industry, Business and Labor Committee (Sen. Mutch, Chairman)** recommends **DO PASS** (5 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). SB 2405 was placed on the Eleventh order on the calendar.

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

**William R. Horton, Secretary**

