

## JOURNAL OF THE SENATE

## Fifty-ninth Legislative Assembly

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Bismarck, January 21, 2005

The Senate convened at 12:30 p.m., with President Dalrymple presiding.

The prayer was offered by Pastor Scott Bauman, Charity Lutheran Church, Bismarck.

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

A quorum was declared by the President.

## CONSIDERATION OF AMENDMENTS

**SB 2162: SEN. NELSON (Judiciary Committee) MOVED** that the amendments on SJ page 136 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

## CONSIDERATION OF AMENDMENTS

**SB 2172: SEN. FAIRFIELD (Industry, Business and Labor Committee) MOVED** that the amendments on SJ page 136 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

## CONSIDERATION OF AMENDMENTS

**SB 2183: SEN. TRAYNOR (Judiciary Committee) MOVED** that the amendments on SJ page 136 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

## CONSIDERATION OF AMENDMENTS

**SB 2191: SEN. TRIPLETT (Judiciary Committee) MOVED** that the amendments on SJ page 136 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

## CONSIDERATION OF AMENDMENTS

**SB 2199: SEN. TRENBEATH (Judiciary Committee) MOVED** that the amendments on SJ page 137 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

## CONSIDERATION OF AMENDMENTS

**SB 2216: SEN. ESPEGARD (Industry, Business and Labor Committee) MOVED** that the amendments on SJ page 137 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

## SECOND READING OF SENATE BILL

**SB 2093:** A BILL for an Act to amend and reenact section 26.1-07-05.1 and subsection 4 of section 26.1-10-03 of the North Dakota Century Code, relating to waiver of dissolution, merger, or acquisition hearings by the insurance commissioner.

## 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; Espesgard; Every; Fairfield; Fischer; Flakoll; Freborg; Grindberg; Hacker; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Nelson; Nothing; O'Connell; Robinson; Schobinger; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Triplett; Urlacher; Wardner; Warner

**ABSENT AND NOT VOTING:** Mutch

Engrossed SB 2093 passed and the title was agreed to.

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**SECOND READING OF SENATE BILL**

**SB 2201:** A BILL for an Act to amend and reenact sections 54-44.5-01, 54-44.5-06, and 54-44.5-07 of the North Dakota Century Code, relating to federal block grants supporting community action agencies.

**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; Espgaard; Every; Fairfield; Fischer; Flakoll; Freborg; Grindberg; Hacker; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Nelson; Nething; O'Connell; Robinson; Schobinger; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Triplett; Urlacher; Wardner; Warner

**ABSENT AND NOT VOTING:** Mutch

SB 2201 passed and the title was agreed to.

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**SECOND READING OF SENATE BILL**

**SB 2210:** A BILL for an Act to amend and reenact sections 15.1-16-03 and 15.1-16-04 of the North Dakota Century Code, relating to compensation for factfinders and members of the education factfinding commission.

**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; Espgaard; Every; Fairfield; Fischer; Flakoll; Freborg; Grindberg; Hacker; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Nelson; Nething; O'Connell; Robinson; Schobinger; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Triplett; Urlacher; Wardner; Warner

**ABSENT AND NOT VOTING:** Mutch

SB 2210 passed and the title was agreed to.

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**MOTION**

**SEN. CHRISTMANN MOVED** that SB 2227 be returned to the Senate floor from the **Political Subdivisions Committee** and be rereferred to the **Finance and Taxation Committee**, which motion prevailed. Pursuant to Sen. Christmann's motion, SB 2227 was rereferred.

**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 2030, SB 2065, SB 2068, SB 2079, SB 2088, SB 2124, SB 2148, SB 2163, SB 2174, SB 2180, SB 2181, SB 2182, SB 2194.

**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 1228, HB 1233.

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

**MR. PRESIDENT:** The Speaker has signed and your signature is respectfully requested on: HCR 3006.

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

**MR. PRESIDENT:** The Speaker has signed: SCR 4006.

**DELIVERY OF ENROLLED BILLS AND RESOLUTIONS**

The following resolution was delivered to the Secretary of State for filing on January 21, 2005: SCR 4006.

**MOTION**

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

**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., Monday, January 24, 2005, which motion prevailed.

**REPORT OF STANDING COMMITTEE**

**SB 2061: 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 2061 was placed on the Sixth order on the calendar.

Page 1, line 2, after "lien" insert "; and to provide a penalty"

Page 1, line 6, after "**lien**" insert "- Penalty"

Page 1, line 14, replace "maintain possession by securing the" with "post a signed and dated notice of the lien on the primary entrance to the mobile home. A person who without authorization from the landlord willfully removes the notice is guilty of a class B misdemeanor."

Page 1, remove lines 15 through 20

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**SB 2128: Government and Veterans Affairs Committee (Sen. Krebsbach, Chairman)** recommends **DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2128 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2129: Government and Veterans Affairs Committee (Sen. Krebsbach, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2129 was placed on the Sixth order on the calendar.

Page 1, line 18, after "loan" insert ". The department may not charge, receive, or collect a credit service charge on money due on a revolving charge account under chapter 51-14"

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**SB 2142: Political Subdivisions Committee (Sen. Cook, Chairman)** recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2142 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2151: Government and Veterans Affairs Committee (Sen. Krebsbach, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2151 was placed on the Sixth order on the calendar.

Page 2, line 1, after the period insert "A system of intrastate mutual aid between emergency response units in North Dakota is created by this Act in order to provide a framework for coordinated response and to ensure, to the fullest extent possible, eligibility for emergency grant funds or other reimbursement assistance."

Page 2, line 18, replace "Each" with "With the exception of volunteers, each"

Page 2, line 22, after "units" insert ", whether paid or volunteer within their own area of responsibility" and after "basis" insert "at rates consistent with the policies of the agencies or entities providing emergency grant funds or other reimbursement assistance"

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**SB 2153: Government and Veterans Affairs Committee (Sen. Krebsbach, Chairman)** recommends **DO NOT PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2153 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2173: Political Subdivisions Committee (Sen. Cook, Chairman)** recommends **DO PASS** (4 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2173 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2184: Judiciary Committee (Sen. Traynor, Chairman)** recommends **DO NOT PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2184 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2202: Government and Veterans Affairs Committee (Sen. Krebsbach, Chairman)** recommends **DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2202 was placed on the Eleventh order on the calendar.

**FIRST READING OF SENATE BILLS**

Sens. Mathern, Andrist, Bercier and Reps. Kaldor, Potter introduced:

**SB 2337:** A BILL for an Act to create and enact two new sections to chapter 14-02.4 of the North Dakota Century Code, relating to the creation of a commission on human rights within the department of labor.

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

Sens. Thane, Fischer, Mathern and Reps. Aarsvold, Hawken introduced:

**SB 2342:** A BILL for an Act to create and enact a new section to chapter 50-24.1 of the North Dakota Century Code, relating to developmental disabilities service providers.

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

Sens. J. Lee, Fischer, Robinson and Reps. Gulleeson, Price, Svedjan introduced:

**SB 2343:** A BILL for an Act to create and enact a new section to chapter 23-06.5 of the North Dakota Century Code, relating to health care directives; to amend and reenact subsection 2 of section 12.1-31-07 and sections 23-06.5-01, 23-06.5-02, 23-06.5-03, 23-06.5-04, 23-06.5-05, 23-06.5-06, 23-06.5-07, 23-06.5-08, 23-06.5-09, 23-06.5-10, 23-06.5-11, 23-06.5-12, 23-06.5-13, 23-06.5-15, 23-06.5-16, 23-06.5-17, and 23-06.5-18 of the North Dakota Century Code, relating to health care decisions and directives; and to repeal chapter 23-06.4 of the North Dakota Century Code, relating to treatment declarations.

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

Sens. Heitkamp, Fischer, Grindberg and Reps. Hawken, Kroeber, Thoreson introduced:

**SB 2344:** A BILL for an Act to amend and reenact subsection 6 of section 53-06.2-05 and section 53-06.2-08 of the North Dakota Century Code, relating to the use of racing commission fee collections.

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

Sens. Every, Triplett and Reps. Devlin, Nelson, Vigesaa introduced:

**SB 2345:** A BILL for an Act to amend and reenact section 23-11-05 of the North Dakota Century Code, relating to the compensation of housing authority commissioners.

Was read the first time and referred to the **Political Subdivisions Committee**.

Sens. Lindaas, Trenbeath, Urlacher and Reps. Aarsvold, Herbel, Monson introduced:

**SB 2346:** A BILL for an Act to create and enact a new section to chapter 19-10 of the North Dakota Century Code, relating to the sale of gasoline containing methyl tertiary butyl ether.

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

Sens. Wardner, Flakoll, Heitkamp and Reps. Delmore, L. Meier, Monson introduced:

**SB 2347:** A BILL for an Act to amend and reenact section 26.1-01-07.4 of the North Dakota Century Code, relating to cooperative agreements for group health care coverage.

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

Sens. Nething, Robinson, Trenbeath and Reps. Delmore, Headland, Weisz introduced:

**SB 2348:** A BILL for an Act to amend and reenact sections 39-04.2-03 and 39-04.2-04 of the North Dakota Century Code, relating to funding of public transportation.

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

Sens. Mathern, Erbele, Heitkamp and Reps. Kaldor, Kerzman, Wald introduced:

**SB 2349:** A BILL for an Act to provide for an office of faith-based initiatives and an advisory commission on faith-based initiatives.

Was read the first time and referred to the **Political Subdivisions Committee**.

Sens. Nething, Brown, Espegard and Reps. DeKrey, Kretschmar, Pollert introduced:

**SB 2350:** A BILL for an Act to provide an appropriation to the department of corrections and rehabilitation for the construction of a new facility or remodeling of an existing facility for offenders at the James River correctional center on the state hospital campus in Jamestown; to provide for state agency and university system June 2005 payroll, paid July 2005, to be charged against the 2005-07 biennium appropriations; to provide for 2003-05 biennium general fund appropriation reductions; and to declare an emergency.

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

Sens. Robinson, Cook, Kringstad and Reps. Amerman, N. Johnson, Porter introduced:

**SB 2351:** A BILL for an Act to amend and reenact section 65-05-09.4 of the North Dakota Century Code, relating to workers' compensation additional benefits for retired injured employees.

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

Sens. Nelson, Brown, J. Lee, Syverson and Rep. S. Kelsh introduced:

**SB 2352:** A BILL for an Act to amend and reenact subsection 10 of section 57-02-08 of the North Dakota Century Code, relating to a property tax exemption for property of a horse racing association; and to provide an effective date.

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

Sen. Wardner and Rep. Vigesaa introduced:

**SB 2353:** A BILL for an Act to amend and reenact sections 44-06-02, 44-06-13, and 44-06-13.1 of the North Dakota Century Code, relating to regulation of notaries public.

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

Sen. Espegard and Rep. Keiser introduced:

**SB 2354:** A BILL for an Act to amend and reenact subsection 2 of section 50-22-01, subsection 2 of section 50-22-02, and section 50-22-02.2 of the North Dakota Century Code, relating to charitable solicitations.

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

Sens. Klein, Taylor and Rep. Kreidt introduced:

**SB 2355:** A BILL for an Act to amend and reenact section 4-35-11 of the North Dakota Century Code, relating to designation of the agent for service of process for a nonresident pesticide applicator or dealer.

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

Sens. Flakoll, J. Lee and Reps. Koppelman, Wieland introduced:

**SB 2356:** A BILL for an Act to create and enact a new section to chapter 53-01 of the North Dakota Century Code, relating to mixed fighting style competitions; and to amend and reenact sections 53-01-02, 53-01-03, 53-01-07, and 53-01-17 of the North Dakota Century Code, relating to the regulation of mixed fighting style competitions.

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

Sens. Taylor, Erbele, Warner and Reps. Brandenburg, Kempenich, S. Meyer introduced:

**SB 2357:** A BILL for an Act to amend and reenact subsection 15 of section 57-02-08 of the North Dakota Century Code, relating to nonfarm income for purposes of the farm residence property tax exemption; and to provide an effective date.

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

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

Sen. Nething introduced:

**SCR 4014:** A concurrent resolution directing the Legislative Council to study vote by mail election processes.

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

Sens. Flakoll, Espegard, Wardner and Reps. Hawken, Thoreson introduced:

**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.

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

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

**William R. Horton, Secretary**