

**JOURNAL OF THE SENATE**

**Fifty-eighth Legislative Assembly**

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**Bismarck, February 27, 2003**

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

The prayer was offered by Pastor Thomas R. Marcis, Jr., Zion Lutheran Church, Bismarck.

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

A quorum was declared by the President.

**MOTION**

**SEN. CHRISTMANN MOVED** that HB 1416 be returned to the Senate floor from the **Natural Resources Committee** and be rereferred to the **Government and Veterans Affairs Committee**, which motion prevailed. Pursuant to Sen. Christmann's motion, HB 1416 was rereferred.

**MOTION**

**SEN. CHRISTMANN MOVED** that HB 1328 be returned to the Senate floor from the **Appropriations Committee** and be placed on the Fourteenth order on the calendar for the Thirty-sixth Legislative Day, which motion prevailed.

**MOTION**

**SEN. CHRISTMANN MOVED** that SCR 4036 be returned to the Senate floor from the **Transportation Committee** for the purpose of withdrawal, which motion prevailed.

**REQUEST**

**SEN. TRENBEATH REQUESTED** the unanimous consent of the Senate to withdraw SCR 4036. There being no objection, it was so ordered by the President.

**CORRECTION AND REVISION OF THE JOURNAL**

**MR. PRESIDENT:** Your **Committee on Correction and Revision of the Journal (Sen. Espgaard, Chairman)** has carefully examined the Journal of the Thirty-third Day and recommends that it be corrected as follows and when so corrected, recommends that it be approved:

Page 588, line 39, replace "SCR 4036" with SR 6001"

**SEN. ESPEGARD MOVED** that the report be adopted, which motion prevailed.

**SECOND READING OF SENATE CONCURRENT RESOLUTION**

**SCR 4034:** A concurrent resolution directing the Legislative Council to study racial issues within the North Dakota public higher education system and determine what can be done to reduce or eliminate racial tensions at public higher education facilities within North Dakota.

The question being on the final adoption of the resolution, which has been read, and has committee recommendation of DO NOT PASS.

SCR 4034 was declared lost on a voice vote.

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**SECOND READING OF SENATE CONCURRENT RESOLUTION**

**SCR 4035:** A concurrent resolution directing the Legislative Council to study legislative alternatives to foster and promote economic development in areas on or near the Indian reservations in North Dakota, including rural areas near Indian reservations.

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

SCR 4035 was declared adopted, and the title was agreed to on a voice vote.

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**SECOND READING OF HOUSE BILL**

**HB 1061:** A BILL for an Act to create and enact subsection 6 of section 26.1-45-01 and section 26.1-45-14 of the North Dakota Century Code, relating to long-term care insurance; and to amend and reenact subsections 3, 4, and 5 of section 26.1-45-01, section 26.1-45-05.1, subdivision b of subsection 2 of section 26.1-45-07, and sections 26.1-45-09 and 26.1-45-11 of the North Dakota Century Code, relating to long-term care insurance.

**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; Christenson; Christmann; Cook; Dever; Erbele; Espegard; Every; Fairfield; 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

**ABSENT AND NOT VOTING:** Fischer

Engrossed HB 1061 passed and the title was agreed to.

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**SECOND READING OF HOUSE BILL**

**HB 1063:** A BILL for an Act to create and enact a new section to chapter 52-09 and a new section to chapter 52-10 of the North Dakota Century Code, relating to administration of the old-age and survivor insurance system and authority of the executive director of job service North Dakota; to amend and reenact section 52-09-03, subsection 4 of section 52-09-07, and subsections 6 and 9 of section 52-09-20 of the North Dakota Century Code, relating to administration of the old-age and survivor insurance system, primary insurance benefits under the old-age and survivor insurance system, authority of the executive director of job service North Dakota, and legislative appropriations for the expenses of administration; to repeal section 52-09-04 of the North Dakota Century Code, relating to the previous authority of the employment security bureau; and to provide for implementation.

**ROLL CALL**

The question being on the 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; Christenson; Christmann; Cook; Dever; Erbele; Espegard; Every; Fairfield; 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

**ABSENT AND NOT VOTING:** Fischer

Engrossed HB 1063 passed and the title was agreed to.

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**SECOND READING OF HOUSE BILL**

**HB 1233:** A BILL for an Act to amend and reenact subsection 5 of section 26.1-17-33.1 of the North Dakota Century Code, relating to the powers of nonprofit mutual insurance companies; 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 46 YEAS, 0 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bercier; Bowman; Brown; Christenson; Christmann; Cook; Dever; Erbele; Espegard; Every; Fairfield; 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

**ABSENT AND NOT VOTING:** Fischer

Engrossed HB 1233 passed, the title was agreed to, and the emergency clause was declared carried.

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#### SECOND READING OF HOUSE BILL

**HB 1104:** A BILL for an Act to amend and reenact subsection 7 of section 6-08.1-02 of the North Dakota Century Code, relating to confidentiality of information in the Bank of North Dakota's possession.

#### 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; Christenson; Christmann; Cook; Dever; Erbele; Espegard; Every; Fairfield; 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

**ABSENT AND NOT VOTING:** Fischer

Engrossed HB 1104 passed and the title was agreed to.

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#### SECOND READING OF HOUSE BILL

**HB 1121:** A BILL for an Act to amend and reenact section 23-09-02 of the North Dakota Century Code, relating to enforcement of food and lodging regulations.

#### 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; Christenson; Christmann; Cook; Dever; Erbele; Espegard; Every; Fairfield; 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

**ABSENT AND NOT VOTING:** Fischer

Engrossed HB 1121 passed and the title was agreed to.

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#### SECOND READING OF HOUSE BILL

**HB 1033:** A BILL for an Act to create and enact a new section to chapter 15.1-21 of the North Dakota Century Code, relating to high school graduation requirements; to amend and reenact section 15.1-23-17 of the North Dakota Century Code, relating to high school graduation requirements for students receiving home education; 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 PASS, 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; 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

**ABSENT AND NOT VOTING:** Fischer

HB 1033 passed and the title was agreed to.

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#### SECOND READING OF HOUSE BILL

**HB 1105:** A BILL for an Act to amend and reenact subsection 6 of section 57-34-01, subsection 2 of section 57-34-03, sections 57-34-04.3 and 57-34-05, and subsection 1 of section 57-34-10 of the North Dakota Century Code, relating to the definition of mobile telecommunications service, refunds to retail customers, refunds to telecommunications carriers, deposit of telecommunications carriers gross receipts tax revenues, and waiver of penalty for failure to report; 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 PASS, the roll was called and there were 38 YEAS, 8 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bowman; Brown; Christmann; Cook; Dever; Erbele; Espegard; Every; Fairfield; Flakoll; Freborg; Grindberg; Heitkamp; Kilzer; Klein; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Mathern; Mutch; Nelson; Nething; Nichols; Robinson; Schobinger; Seymour; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

**NAYS:** Bercier; Christenson; Holmberg; Krauter; Lyson; O'Connell; Polovitz; Stenehjem

**ABSENT AND NOT VOTING:** Fischer

HB 1105 passed and the title was agreed to.

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#### SECOND READING OF HOUSE BILL

**HB 1201:** A BILL for an Act to create and enact a new subsection to section 43-12.1-04 of the North Dakota Century Code, relating to persons excluded from the Nurse Practices Act.

#### 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; Christenson; Christmann; Cook; Dever; Erbele; Espegard; Every; Fairfield; 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

**ABSENT AND NOT VOTING:** Fischer

Engrossed HB 1201 passed and the title was agreed to.

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#### SECOND READING OF HOUSE BILL

**HB 1379:** A BILL for an Act to amend and reenact subsection 2 of section 41-09-09, subsection 2 of section 41-09-11, and subsection 7 of section 41-09-13 of the North Dakota Century Code, relating to priority of state real estate statutes over related provisions of the Uniform Commercial Code.

**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; Christenson; Christmann; Cook; Dever; Erbele; Espegard; Every; Fairfield; 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

**ABSENT AND NOT VOTING:** Fischer

HB 1379 passed and the title was agreed to.

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**SECOND READING OF HOUSE CONCURRENT RESOLUTION**

**HCR 3001:** A concurrent resolution authorizing the Budget Section of the Legislative Council to hold the required legislative hearings on state plans for the receipt and expenditure of new or revised block grants passed by Congress.

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

HCR 3001 was declared adopted, and the title was agreed to on a voice vote.

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**MOTION**

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

**MOTION**

**SEN. CHRISTMANN MOVED** that the Senate be on the Fourth, Fifth, Seventh, Ninth, and Thirteenth orders of business and at the conclusion of those orders, the Senate stand adjourned until 12:30 p.m., Friday, February 28, 2003, which motion prevailed.

**REPORT OF STANDING COMMITTEE**

**SB 2419: Natural Resources Committee (Sen. Fischer, Chairman)** recommends **DO PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2419 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SR 6001: Transportation Committee (Sen. Trenbeath, Chairman)** recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SR 6001 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1046: Transportation Committee (Sen. Trenbeath, Chairman)** recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1046 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1059, as engrossed: Government and Veterans Affairs Committee (Sen. Krebsbach, Chairman)** recommends **DO PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1059 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1070: Judiciary Committee (Sen. Traynor, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (4 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). HB 1070 was placed on the Sixth order on the calendar.

Page 1, line 4, remove "and" and after "41-09-24" insert ", and subsection 1 of section 41-09-31"

Page 1, line 5, replace "and" with a comma and after "banks" insert ", and perfection of security interests in certain property"

Page 2, after line 17, insert:

**"SECTION 5. AMENDMENT.** Subsection 1 of section 41-09-31 of the North Dakota Century Code is amended and reenacted as follows:

1. Except as otherwise provided in subsection 4, the filing of a financing statement is not necessary or effective to perfect a security interest in property subject to:
  - a. A statute, regulation, or treaty of the United States whose requirements for a security interest's obtaining priority over the rights of a lien creditor with respect to the property preempt subsection 1 of section 41-09-30;
  - b. Section 35-01-05.1; or
  - c. A certificate-of-title statute of another jurisdiction which provides for a security interest to be indicated on the certificate as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the property; ~~or~~
  - d. ~~Section 35-01-05.~~"

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**HB 1108: 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). HB 1108 was placed on the Sixth order on the calendar.

Page 1, line 10, after the period insert "As used in this subsection, a "payroll service provider" means a person that, for federal tax purposes, electronically processes and transmits an employer's withholding returns and taxes, including wage information returns."

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**HB 1113, as reengrossed: Transportation Committee (Sen. Trenbeath, Chairman)** recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Reengrossed HB 1113 was rereferred to the **Appropriations Committee**.

**REPORT OF STANDING COMMITTEE**

**HB 1122, as engrossed: Natural Resources Committee (Sen. Fischer, Chairman)** recommends **DO PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1122 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1130: Agriculture Committee (Sen. Flakoll, Chairman)** recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1130 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1228, as engrossed: Human Services Committee (Sen. J. Lee, Chairman)** recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1228 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HCR 3005: Joint Constitutional Revision Committee (Sen. Tollefson, Chairman)** recommends **DO PASS** (8 YEAS, 1 NAY, 1 ABSENT AND NOT VOTING). HCR 3005 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HCR 3035: Joint Constitutional Revision Committee (Sen. Tollefson, Chairman)** recommends **DO PASS** (9 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HCR 3035 was placed on the Fourteenth order on the calendar.

**FIRST READING OF SENATE RESOLUTION**

Sen. Trenbeath introduced:

(Approved by the Delayed Bills Committee)

**SR 6001:** A resolution honoring Mr. Everett C. Albers for his unswerving devotion to bringing the humanities to the people of this state.

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

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

**WILLIAM R. HORTON, Secretary**

