

## JOURNAL OF THE SENATE

## Fifty-fourth Legislative Assembly

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Bismarck, February 1, 1995

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

The prayer was offered by Pastor Mark L. Listen, Bismarck Wesleyan Church, Bismarck.

The roll was called and all members were present except Senators Langley and Nething.

A quorum was declared by the President.

## CORRECTION AND REVISION OF THE JOURNAL

MADAM PRESIDENT: Your Committee on Correction and Revision of the Journal (Sen. Sand, Chairman) has carefully examined the Journal of the Nineteenth Day and recommends that it be corrected as follows and when so corrected, recommends that it be approved:

Page 253, line 13, replace "Goetz's" with "G. Nelson's"

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

## MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM C. PARKER, SECRETARY)

MR. SPEAKER: The Senate has passed and your favorable consideration is requested on: SB 2122.

## MESSAGE TO THE SENATE FROM THE HOUSE (ROY GILBREATH, CHIEF CLERK)

MADAM PRESIDENT: The House has passed and your favorable consideration is requested on: HB 1007.

## MESSAGE TO THE SENATE FROM THE HOUSE (ROY GILBREATH, CHIEF CLERK)

MADAM PRESIDENT: The House accedes to the Senate request for the return of: SB 2020, SB 2027.

## MOTION

SEN. GOETZ MOVED that SB 2197 be moved to the bottom of the Sixth order, which motion prevailed.

## CONSIDERATION OF AMENDMENTS

SB 2010: SEN. ROBINSON (Appropriations Committee) MOVED that the amendments on SJ page 269 be adopted and then be placed on the Eleventh order with DO PASS, which motion prevailed.

## CONSIDERATION OF AMENDMENTS

SB 2063: SEN. HEINRICH (Education Committee) MOVED that the amendments on SJ pages 270-273 be adopted and then be placed on the Eleventh order with DO PASS, which motion prevailed.

## CONSIDERATION OF AMENDMENTS

SB 2072: SEN. FREBORG (Natural Resources Committee) MOVED that the amendments on SJ pages 273-274 be adopted and then be placed on the Eleventh order with DO PASS, which motion prevailed.

## CONSIDERATION OF AMENDMENTS

SB 2315: SEN. C. NELSON (Judiciary Committee) MOVED that the amendments on SJ pages 276-277 be adopted and then be placed on the Eleventh order with DO PASS, which motion prevailed.

## CONSIDERATION OF AMENDMENTS

**SB 2427:** SEN. TOMAC (Finance and Taxation Committee) MOVED that the amendments on SJ page 277 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

## CONSIDERATION OF AMENDMENTS

**SB 2197:** SEN. KRAUTER (Industry, Business and Labor Committee) MOVED that the amendments on SJ page 274 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

## MOTION

**SEN. GOETZ** MOVED that the rules be suspended and that SB 2197 be deemed properly engrossed and be placed on the Eleventh order, as amended, for second reading and final passage, which motion prevailed.

## SECOND READING OF SENATE BILL

**SB 2197:** A BILL for an Act to amend and reenact sections 5-01-04 and 5-01-08 of the North Dakota Century Code, relating to the manufacture of alcoholic beverages.

## ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 46 YEAS, 0 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bowman; Christmann; DeMers; Freborg; Goetz; Grindberg; Heinrich; Heitkamp; Holmberg; Kelsh; Kinnoin; Krauter; Krebsbach; Kringstad; LaFountain; Lee; Lindaas; Lips; Mathern; Mushik; Mutch; Naaden; Nalewaja; Nelson, C.; Nelson, G.; O'Connell; Redlin; Robinson; Sand; Scherber; Schobinger; Solberg; St. Aubyn; Stenehjem, B.; Stenehjem, W.; Streibel; Tennefos; Thane; Tomac; Traynor; Urlacher; Wanzek; Watne; Wogsland; Yockim

**ABSENT AND NOT VOTING:** Langley; Nething; Tallackson

Engrossed SB 2197 passed and the title was agreed to.

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## CONSIDERATION OF AMENDMENTS

**SB 2198:** SEN. KRAUTER (Industry, Business and Labor Committee) MOVED that the amendments on SJ pages 274-276 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

## SECOND READING OF SENATE BILL

**SB 2198:** A BILL for an Act to amend and reenact subsection 7 of section 5-01-01, sections 5-01-11, 5-01-14, 5-03-03, and subsection 2 of section 5-03-04 of the North Dakota Century Code, relating to microbrew pubs.

## ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 46 YEAS, 0 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bowman; Christmann; DeMers; Freborg; Goetz; Grindberg; Heinrich; Heitkamp; Holmberg; Kelsh; Kinnoin; Krauter; Krebsbach; Kringstad; LaFountain; Lee; Lindaas; Lips; Mathern; Mushik; Mutch; Naaden; Nalewaja; Nelson, C.; Nelson, G.; O'Connell; Redlin; Robinson; Sand; Scherber; Schobinger; Solberg; St. Aubyn; Stenehjem, B.; Stenehjem, W.; Streibel; Tennefos; Thane; Tomac; Traynor; Urlacher; Wanzek; Watne; Wogsland; Yockim

**ABSENT AND NOT VOTING:** Langley; Nething; Tallackson

Engrossed SB 2198 passed and the title was agreed to.

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#### SECOND READING OF SENATE BILL

**SB 2024:** A BILL for an Act to provide an appropriation for defraying the expenses of the tourism department.

#### 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, 3 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bowman; Christmann; DeMers; Freborg; Goetz; Grindberg; Heinrich; Heitkamp; Holmberg; Kelsh; Kinnoin; Krauter; Krebsbach; Kringstad; LaFountain; Lee; Lindaas; Lips; Mathern; Mushik; Mutch; Naaden; Nalewaja; Nelson, C.; Nelson, G.; O'Connell; Redlin; Robinson; Sand; Scherber; Schobinger; Solberg; St. Aubyn; Stenehjem, B.; Stenehjem, W.; Streibel; Tennefos; Thane; Tomac; Traynor; Urlacher; Wanzek; Watne; Wogsland; Yockim

**ABSENT AND NOT VOTING:** Langley; Nething; Tallackson

Engrossed SB 2024 passed and the title was agreed to.

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#### SECOND READING OF SENATE BILL

**SB 2088:** A BILL for an Act to amend and reenact subsection 14 of section 62.1-01-01 of the North Dakota Century Code, relating to the definition of a shotgun.

#### 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, 2 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bowman; Christmann; DeMers; Freborg; Goetz; Grindberg; Heinrich; Heitkamp; Holmberg; Kelsh; Kinnoin; Krauter; Krebsbach; Kringstad; LaFountain; Lee; Lindaas; Lips; Mathern; Mushik; Mutch; Naaden; Nalewaja; Nelson, C.; Nelson, G.; O'Connell; Redlin; Robinson; Sand; Scherber; Schobinger; Solberg; St. Aubyn; Stenehjem, B.; Stenehjem, W.; Streibel; Tallackson; Tennefos; Thane; Tomac; Traynor; Urlacher; Wanzek; Watne; Wogsland; Yockim

**ABSENT AND NOT VOTING:** Langley; Nething

Engrossed SB 2088 passed and the title was agreed to.

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#### SECOND READING OF SENATE BILL

**SB 2146:** A BILL for an Act to amend and reenact section 61-24.3-10 of the North Dakota Century Code, relating to the authority of the state water commission to sell property not needed for the southwest pipeline project.

#### 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, 2 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bowman; Christmann; DeMers; Freborg; Goetz; Grindberg; Heinrich; Heitkamp; Holmberg; Kelsh; Kinnoin; Krauter; Krebsbach; Kringstad; LaFountain; Lee; Lindaas; Lips; Mathern; Mushik; Mutch;

Naaden; Nalewaja; Nelson, C.; Nelson, G.; O'Connell; Redlin; Robinson; Sand; Scherber; Schobinger; Solberg; St. Aubyn; Stenehjem, B.; Stenehjem, W.; Streibel; Tallackson; Tennefos; Thane; Tomac; Traynor; Urlacher; Wanzek; Watne; Wogsland; Yockim

**ABSENT AND NOT VOTING:** Langley; Nothing

Engrossed SB 2146 passed and the title was agreed to.

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**SECOND READING OF SENATE BILL**

**SB 2177:** A BILL for an Act to amend and reenact section 54-16-04.2 of the North Dakota Century Code, relating to budget section authorization for acceptance and expenditures of money.

**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, 2 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bowman; Christmann; DeMers; Freborg; Goetz; Grindberg; Heinrich; Heitkamp; Holmberg; Kelsh; Kinnoin; Krauter; Krebsbach; Kringstad; LaFountain; Lee; Lindaas; Lips; Mathern; Mushik; Mutch; Naaden; Nalewaja; Nelson, C.; Nelson, G.; O'Connell; Redlin; Robinson; Sand; Scherber; Schobinger; Solberg; St. Aubyn; Stenehjem, B.; Stenehjem, W.; Streibel; Tallackson; Tennefos; Thane; Tomac; Traynor; Urlacher; Wanzek; Watne; Wogsland; Yockim

**ABSENT AND NOT VOTING:** Langley; Nothing

Engrossed SB 2177 passed and the title was agreed to.

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**SECOND READING OF SENATE BILL**

**SB 2257:** 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 establishment of a college student cooperative education or intern program for executive and legislative branch agencies.

**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, 2 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bowman; Christmann; DeMers; Freborg; Goetz; Grindberg; Heinrich; Heitkamp; Holmberg; Kelsh; Kinnoin; Krauter; Krebsbach; Kringstad; LaFountain; Lee; Lindaas; Lips; Mathern; Mushik; Mutch; Naaden; Nalewaja; Nelson, C.; Nelson, G.; O'Connell; Redlin; Robinson; Sand; Scherber; Schobinger; Solberg; St. Aubyn; Stenehjem, B.; Stenehjem, W.; Streibel; Tallackson; Tennefos; Thane; Tomac; Traynor; Urlacher; Wanzek; Watne; Wogsland; Yockim

**ABSENT AND NOT VOTING:** Langley; Nothing

Engrossed SB 2257 passed and the title was agreed to.

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**SECOND READING OF SENATE BILL**

**SB 2098:** A BILL for an Act to amend and reenact section 15-27.3-12 and subsection 1 of section 15-28-03 of the North Dakota Century Code, relating to special elections for school board members in reorganized districts.

**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 0 YEAS, 47 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

**NAYS:** Andrist; Bowman; Christmann; DeMers; Freborg; Goetz; Grindberg; Heinrich; Heitkamp; Holmberg; Kelsh; Kinnoin; Krauter; Krebsbach; Kringstad; LaFountain; Lee; Lindaas; Lips; Mathern; Mushik; Mutch; Naaden; Nalewaja; Nelson, C.; Nelson, G.; O'Connell; Redlin; Robinson; Sand; Scherber; Schobinger; Solberg; St. Aubyn; Stenehjem, B.; Stenehjem, W.; Streibel; Tallackson; Tennefos; Thane; Tomac; Traynor; Urlacher; Wanzek; Watne; Wogsland; Yockim

**ABSENT AND NOT VOTING:** Langley; Nething

SB 2098 lost.

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**SECOND READING OF SENATE BILL**

**SB 2105:** A BILL for an Act to amend and reenact subsection 3 of section 54-44.3-07 of the North Dakota Century Code, relating to the duties of the state personnel board.

**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 0 YEAS, 46 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

**NAYS:** Andrist; Bowman; Christmann; DeMers; Freborg; Goetz; Grindberg; Heinrich; Heitkamp; Holmberg; Kelsh; Kinnoin; Krauter; Krebsbach; Kringstad; LaFountain; Lee; Lindaas; Lips; Mathern; Mushik; Mutch; Nalewaja; Nelson, C.; Nelson, G.; O'Connell; Redlin; Robinson; Sand; Scherber; Schobinger; Solberg; St. Aubyn; Stenehjem, B.; Stenehjem, W.; Streibel; Tallackson; Tennefos; Thane; Tomac; Traynor; Urlacher; Wanzek; Watne; Wogsland; Yockim

**ABSENT AND NOT VOTING:** Langley; Naaden; Nething

SB 2105 lost.

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**SECOND READING OF SENATE BILL**

**SB 2106:** A BILL for an Act to amend and reenact section 54-06-14 of the North Dakota Century Code, relating to accrual of annual leave and sick leave of classified state employees.

**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 0 YEAS, 46 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

**NAYS:** Andrist; Bowman; Christmann; DeMers; Freborg; Goetz; Grindberg; Heinrich; Heitkamp; Holmberg; Kelsh; Kinnoin; Krauter; Krebsbach; Kringstad; LaFountain; Lee; Lindaas; Lips; Mathern; Mushik; Mutch; Nalewaja; Nelson, C.; Nelson, G.; O'Connell; Redlin; Robinson; Sand; Scherber; Schobinger; Solberg; St. Aubyn; Stenehjem, B.; Stenehjem, W.; Streibel; Tallackson; Tennefos; Thane; Tomac; Traynor; Urlacher; Wanzek; Watne; Wogsland; Yockim

**ABSENT AND NOT VOTING:** Langley; Naaden; Nething

SB 2106 lost.

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**SECOND READING OF SENATE BILL**

**SB 2147:** A BILL for an Act to authorize the state water commission to transfer title and convey certain property acquired for the southwest pipeline project.

**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 0 YEAS, 45 NAYS, 0 EXCUSED, 4 ABSENT AND NOT VOTING.

**NAYS:** Andrist; Bowman; Christmann; DeMers; Freborg; Goetz; Grindberg; Heinrich; Heitkamp; Holmberg; Kelsh; Kinnoin; Krauter; Krebsbach; Kringstad; LaFountain; Lee; Lindaas; Lips; Mathern; Mushik; Mutch; Nalewaja; Nelson, C.; Nelson, G.; O'Connell; Robinson; Sand; Scherber; Schobinger; Solberg; St. Aubyn; Stenehjem, B.; Stenehjem, W.; Streibel; Tallackson; Tennefos; Thane; Tomac; Traynor; Urlacher; Wanzek; Watne; Wogsland; Yockim

**ABSENT AND NOT VOTING:** Langley; Naaden; Nething; Redlin

SB 2147 lost.

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**SECOND READING OF SENATE BILL**

**SB 2170:** A BILL for an Act to amend and reenact subsections 9 and 11 of section 15-39.1-04, sections 15-39.1-06, 15-39.1-10, 15-39.1-18, 15-39.1-20, and 15-39.1-24 of the North Dakota Century Code, relating to definitions, organization of the board, distribution of benefits, disability retirement, withdrawal from the fund, and the purchase of additional credit under the teachers' 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, 2 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bowman; Christmann; DeMers; Freborg; Goetz; Grindberg; Heinrich; Heitkamp; Holmberg; Kelsh; Kinnoin; Krauter; Krebsbach; Kringstad; LaFountain; Lee; Lindaas; Lips; Mathern; Mushik; Mutch; Naaden; Nalewaja; Nelson, C.; Nelson, G.; O'Connell; Redlin; Robinson; Sand; Scherber; Schobinger; Solberg; St. Aubyn; Stenehjem, B.; Stenehjem, W.; Streibel; Tallackson; Tennefos; Thane; Tomac; Traynor; Urlacher; Wanzek; Watne; Wogsland; Yockim

**ABSENT AND NOT VOTING:** Langley; Nething

SB 2170 passed and the title was agreed to.

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**SECOND READING OF SENATE BILL**

**SB 2171:** A BILL for an Act to create and enact a new section to chapter 54-52 and a new subdivision to subsection 4 of section 54-52-17 of the North Dakota Century Code, relating to purchase of service credit and conversion of unused sick leave under the public employees retirement system; and to amend and reenact subsection 6 of Section 54-52-17 of the North Dakota Century Code, relating to calculation of benefits for surviving spouses under the public employees retirement system.

**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, 2 ABSENT AND NOT VOTING.

YEAS: Andrist; Bowman; Christmann; DeMers; Freborg; Goetz; Grindberg; Heinrich; Heitkamp; Holmberg; Kelsh; Kinnoin; Krauter; Krebsbach; Kringstad; LaFountain; Lee; Lindaas; Lips; Mathern; Mushik; Mutch; Naaden; Nalewaja; Nelson, C.; Nelson, G.; O'Connell; Redlin; Robinson; Sand; Scherber; Schobinger; Solberg; St. Aubyn; Stenehjem, B.; Stenehjem, W.; Streibel; Tallackson; Tennefos; Thane; Tomac; Traynor; Urlacher; Wanzek; Watne; Wogsland; Yockim

ABSENT AND NOT VOTING: Langley; Nething

SB 2171 passed and the title was agreed to.

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SECOND READING OF SENATE BILL

SB 2172: A BILL for an Act to create and enact a new section to chapter 54-52 and three new subsections to section 54-52-04 of the North Dakota Century Code, relating to interest and earnings credited to funds administered by the retirement board and authority of the retirement board; and to amend and reenact section 54-52-01, subsection 1 of section 54-52-05, section 54-52-06, subsections 6 and 8 of section 54-52-17, and section 54-52-17.4 of the North Dakota Century Code, relating to definitions, enrollment of members, employer contributions, beneficiaries, and purchase of additional credit under the public employees retirement system.

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, 2 ABSENT AND NOT VOTING.

YEAS: Andrist; Bowman; Christmann; DeMers; Freborg; Goetz; Grindberg; Heinrich; Heitkamp; Holmberg; Kelsh; Kinnoin; Krauter; Krebsbach; Kringstad; LaFountain; Lee; Lindaas; Lips; Mathern; Mushik; Mutch; Naaden; Nalewaja; Nelson, C.; Nelson, G.; O'Connell; Redlin; Robinson; Sand; Scherber; Schobinger; Solberg; St. Aubyn; Stenehjem, B.; Stenehjem, W.; Streibel; Tallackson; Tennefos; Thane; Tomac; Traynor; Urlacher; Wanzek; Watne; Wogsland; Yockim

ABSENT AND NOT VOTING: Langley; Nething

SB 2172 passed and the title was agreed to.

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SECOND READING OF SENATE BILL

SB 2173: A BILL for an Act to create and enact a new section to chapter 39-03.1 of the North Dakota Century Code, relating to conversion of unused sick leave under the highway patrolmen's retirement system; and to amend and reenact subsection 2 of section 39-03.1-10.1, subdivision a of subsection 4 of section 39-03.1-11, subsection 6 of section 39-03.1-11, and subsection 8 of section 39-03.1-11 of the North Dakota Century Code, relating to purchase of service, retirement benefits, surviving spouse benefits, and surviving spouses of members under the highway patrolmen's retirement system.

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, 2 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bowman; Christmann; DeMers; Freborg; Goetz; Grindberg; Heinrich; Heitkamp; Holmberg; Kelsh; Kinnoin; Krauter; Krebsbach; Kringstad; LaFountain; Lee; Lindaas; Lips; Mathern; Mushik; Mutch; Naaden; Nalewaja; Nelson, C.; Nelson, G.; O'Connell; Redlin; Robinson; Sand; Scherber; Schobinger; Solberg; St. Aubyn; Stenehjem, B.; Stenehjem, W.; Streibel; Tallackson; Tennefos; Thane; Tomac; Traynor; Urlacher; Wanzenk; Watne; Wogsland; Yockim

**ABSENT AND NOT VOTING:** Langley; Nething

SB 2173 passed and the title was agreed to.

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#### SECOND READING OF SENATE BILL

**SB 2174:** A BILL for an Act to amend and reenact subsection 7 of section 54-52-01, sections 54-52-02.1, 54-52-02.2, subsection 1 of section 54-52-05, sections 54-52-07, and 54-52.1-03.1 of the North Dakota Century Code, relating to the definition of governmental unit for purposes of the public employees retirement system, participation in the public employees retirement system, and participation in the uniform group insurance program.

#### 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, 2 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bowman; Christmann; DeMers; Freborg; Goetz; Grindberg; Heinrich; Heitkamp; Holmberg; Kelsh; Kinnoin; Krauter; Krebsbach; Kringstad; LaFountain; Lee; Lindaas; Lips; Mathern; Mushik; Mutch; Naaden; Nalewaja; Nelson, C.; Nelson, G.; O'Connell; Redlin; Robinson; Sand; Scherber; Schobinger; Solberg; St. Aubyn; Stenehjem, B.; Stenehjem, W.; Streibel; Tallackson; Tennefos; Thane; Tomac; Traynor; Urlacher; Wanzenk; Watne; Wogsland; Yockim

**ABSENT AND NOT VOTING:** Langley; Nething

SB 2174 passed and the title was agreed to.

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#### SECOND READING OF SENATE BILL

**SB 2190:** A BILL for an Act to amend and reenact subsection 3 of section 15-39.1-04, sections 15-39.1-05 and 15-39.1-06, subsection 2 of section 15-39.1-10.3, section 21-10-02, subsection 2 of section 21-10-02.1, subsection 2 of section 39-03.1-01, subsection 15 of section 54-52-01, section 54-52-03, subsection 7 of section 54-52-04, subsection 1 of section 54-52.1-01, sections 54-52.2-01, 54-52.2-02, 54-52.2-03, 54-52.3-01, 54-52.3-03, 54-52.5-01, 54-52.5-02, and 54-52.5-03 of the North Dakota Century Code, relating to the public employees benefits board, management of the teachers' fund for retirement, establishment and duties of the state investment office, establishment, organization, and duties of the public employees benefits board, administration of the deferred compensation program by the public employees benefits board, administration of the pretax benefits program for public employees by the public employees benefits board, and establishment, organization, and duties of the state investment office; to repeal sections 15-39.1-07, 15-39.1-08, and 54-52-19.2 of the North Dakota Century Code, relating to the duties, organization, and elimination of the board of trustees for the teachers' fund for retirement and the grant of prior service credit by the public employees retirement system; to provide an effective date; 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 0 YEAS, 47 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

**NAYS:** Andrist; Bowman; Christmann; DeMers; Freborg; Goetz; Grindberg; Heinrich; Heitkamp; Holmberg; Kelsh; Kinnoin; Krauter; Krebsbach; Kringstad; LaFountain; Lee; Lindaas; Lips; Mathern; Mushik; Mutch; Naaden; Nalewaja; Nelson, C.; Nelson, G.; O'Connell; Redlin; Robinson; Sand; Scherber; Schobinger; Solberg; St. Aubyn; Stenehjem, B.; Stenehjem, W.; Streibel; Tallackson; Tennefos; Thane; Tomac; Traynor; Urlacher; Wanzek; Watne; Wogsland; Yockim

**ABSENT AND NOT VOTING:** Langley; Nething

SB 2190 lost.

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**SECOND READING OF SENATE BILL**

**SB 2218:** A BILL for an Act to amend and reenact subsection 1 of section 61-04.1-03, sections 61-04.1-08, 61-04.1-09, 61-04.1-12, 61-04.1-14, 61-04.1-15, 61-04.1-16, 61-04.1-17, 61-04.1-18, 61-04.1-19, 61-04.1-20, 61-04.1-21, 61-04.1-33, 61-04.1-34, 61-04.1-35, subsection 4 of section 61-04.1-37, sections 61-04.1-38, and 61-04.1-39 of the North Dakota Century Code, relating to assumption of the duties of the atmospheric resource board by the state water commission; to repeal sections 61-04.1-03.1, 61-04.1-04, 61-04.1-05, 61-04.1-06, 61-04.1-07, and 61-04.1-10 of the North Dakota Century Code, relating to the atmospheric resource board; to provide an effective date; 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 12 YEAS, 35 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

**YEAS:** Christmann; Freborg; Goetz; Krauter; Kringstad; Lips; Nalewaja; Nelson, G.; Schobinger; Solberg; Urlacher; Wanzek

**NAYS:** Andrist; Bowman; DeMers; Grindberg; Heinrich; Heitkamp; Holmberg; Kelsh; Kinnoin; Krebsbach; LaFountain; Lee; Lindaas; Mathern; Mushik; Mutch; Naaden; Nelson, C.; O'Connell; Redlin; Robinson; Sand; Scherber; St. Aubyn; Stenehjem, B.; Stenehjem, W.; Streibel; Tallackson; Tennefos; Thane; Tomac; Traynor; Watne; Wogsland; Yockim

**ABSENT AND NOT VOTING:** Langley; Nething

SB 2218 lost.

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**MOTION**

**SEN. GOETZ MOVED** that SB 2020 and SB 2027 be rereferred to the Appropriations Committee, which motion prevailed.

Pursuant to Sen. Goetz's motion, SB 2020 and SB 2027, which have been returned to the Senate from the House, were rereferred.

**MOTION**

**SEN. GOETZ MOVED** that the absent members be excused, which motion prevailed.

**MOTION**

**SEN. GOETZ 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, February 2, 1995, which motion prevailed.

**REPORT OF STANDING COMMITTEE**

**SB 2043: Human Services Committee (Sen. Thane, Chairman)** recommends **DO NOT PASS** (5 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2043 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2046: Human Services Committee (Sen. Thane, Chairman)** recommends **DO NOT PASS** (4 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). SB 2046 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2131: Industry, Business and Labor Committee (Sen. Mutch, Chairman)** recommends **DO NOT PASS** (5 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). SB 2131 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2290: Education Committee (Sen. Freborg, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2290 was placed on the Sixth order on the calendar.

Page 1, line 10, replace "ten" with "eleven"

Page 1, line 13, remove "If students age ten or older are not enrolled in a school,"

Page 1, remove lines 14 through 16

Page 1, line 17, remove "school principal or administrator."

Page 1, line 21, replace "Schools" with "The superintendent of public instruction, schools"

Page 2, line 2, replace "parent volunteers" with "adults"

Page 2, line 6, after "duty" insert ", provided that such persons substantially complied with the standards to guide safety patrol members, as adopted by the superintendent of public instruction"

Re-number accordingly

**REPORT OF STANDING COMMITTEE**

**SB 2307: Education Committee (Sen. Freborg, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (4 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). SB 2307 was placed on the Sixth order on the calendar.

Page 1, line 17, replace "eighteen" with "twenty-two"

Re-number accordingly

**REPORT OF STANDING COMMITTEE**

**SB 2314: Political Subdivisions Committee (Sen. Urlacher, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2314 was placed on the Sixth order on the calendar.

Page 1, line 1, after "sections" insert "6-08.1-03," and after "21-04-09" insert a comma

Page 1, line 2, after "to" insert "confidentiality of financial institution customer information and"

Page 1, after line 4, insert:

"SECTION 1. AMENDMENT. Section 6-08.1-03 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**6-08.1-03. Duty of confidentiality.** A financial institution may not disclose customer information to any person, governmental agency, or law enforcement agency unless the disclosure is made in accordance with any of the following:

1. Pursuant to consent granted by the customer in accordance with this chapter.
2. To a person other than a governmental agency or law enforcement agency pursuant to valid legal process.
3. To a governmental agency or law enforcement agency pursuant to valid legal process in accordance with this chapter.
4. For the purpose of reporting a suspected violation of the law in accordance with this chapter.
5. For the purpose of notifying the commissioner of agriculture that a financial institution has notified a customer of the availability of the North Dakota agricultural mediation service.
6. As part of the disclosure made of deposits of public corporations with financial institutions in the security pledge schedule verified by the custodian of securities pursuant to section 21-04-09."

Page 2, line 2, overstrike "may" and insert immediately thereafter "and securities sold under agreements to repurchase as described in section 21-06-07 must"

Re-number accordingly

**REPORT OF STANDING COMMITTEE**

**SB 2326: Natural Resources Committee (Sen. Traynor, Chairman)** recommends **DO NOT PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2326 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2345: Industry, Business and Labor Committee (Sen. Mutch, Chairman)** recommends **DO NOT PASS** (5 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). SB 2345 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2367: Finance and Taxation Committee (Sen. Tennefos, Chairman)** recommends **DO NOT PASS** (6 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). SB 2367 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2377: Industry, Business and Labor Committee (Sen. Mutch, Chairman)** recommends **DO PASS** (5 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). SB 2377 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2394: Finance and Taxation Committee (Sen. Tennefos, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (4 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). SB 2394 was placed on the Sixth order on the calendar.

Page 1, line 1, after "to" insert "create and enact a new subsection to section 57-39.2-12.1 and a new subsection to section 57-40.2-07.1 of the North Dakota Century Code, relating to sales and use tax deductions for administrative expenses; to"

Page 1, line 8, overstrike "estimated"

Page 1, line 10, after "basis" insert "within the prescribed time"

Page 1, after line 11, insert:

"SECTION 2. A new subsection to section 57-39.2-12.1 of the North Dakota Century Code is created and enacted as follows:

A deduction may not be allowed under this section if the retailer has had more than one delinquent return or tax payment during the previous twelve months."

Page 1, line 14, overstrike "estimated"

Page 1, line 16, after "basis" insert "within the prescribed time"

Page 1, after line 17, insert:

"SECTION 4. A new subsection to section 57-40.2-07.1 of the North Dakota Century Code is created and enacted as follows:

A deduction may not be allowed under this section if the retailer has had more than one delinquent return or tax payment during the previous twelve months."

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

SB 2418: Human Services Committee (Sen. Thane, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2418 was placed on the Sixth order on the calendar.

Page 1, line 5, after "services" insert ", a county, a city, or a local law enforcement agency"

Page 1, line 7, after "dependent" insert "or mentally ill"

Page 1, line 8, after "are" insert "treated or"

Page 1, line 9, after "dependency" insert "or mental illness"

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

SB 2426: Finance and Taxation Committee (Sen. Tennefos, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2426 was placed on the Sixth order on the calendar.

Page 1, line 3, remove the first "and" and replace the second "to" with "subsection 1 of section 57-39.2-18 and"

Page 1, line 4, after "taxes" insert "; and to provide an effective date"

Page 1, line 8, replace "may" with "shall"

Page 1, after line 18, insert:

"SECTION 2. AMENDMENT. Subsection 1 of section 57-39.2-18 of the North Dakota Century Code is amended and reenacted as follows:

1. If any person fails to file a return or corrected return or to pay any tax within the time required by this chapter or, if upon audit, is found to owe additional tax, the person is subject to a penalty of five percent of the amount of tax due or of five dollars, whichever is greater, plus interest of one percent of the tax per month or fraction of a month of delay except the first month after the return or the tax became due. Any person on a monthly filing schedule with seven to fourteen delinquent original returns or payments, and any person other than a monthly filer with four to eight delinquent original returns or payments, is subject to a penalty of ten percent of the tax due or twenty-five dollars, whichever is greater, plus interest of one percent of the tax per month or fraction of a month of delay except the first month after the return or the tax became due. Any person on a monthly filing schedule with fifteen or more delinquent original returns or payments, and any person other than a monthly filer with nine or more delinquent original returns or payments, is subject to a penalty of fifteen percent of the tax due or one hundred dollars, whichever is greater, plus interest of one percent of the tax due per month or fraction of a month of delay except the first month after the return or the tax became due. The enhanced penalties under this subsection for persons with previous delinquent original returns do not apply to a person who has had no delinquent original returns or payments for a period of eighteen months immediately preceding the return or payment for which the penalty is determined under this subsection. The commissioner, if satisfied that the delay was excusable, may waive, and if paid, refund all or any part of the penalty and interest. The penalty and interest must be paid to the commissioner and disposed of in the same manner as other receipts under this chapter. Unpaid penalties and interest may be enforced in the same manner as the tax imposed by this chapter."

Page 3, line 3, replace "may" with "shall"

Page 3, after line 11, insert:

"SECTION 4. EFFECTIVE DATE. This Act is effective for taxable events occurring after July 31, 1995."

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

SB 2341: Finance and Taxation Committee (Sen. Tennefos, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS and BE REFERRED to the Appropriations Committee (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2341 was placed on the Sixth order on the calendar.

Page 1, line 1, remove "section 52-04-01,"

Page 1, line 2, remove ", and section 65-04-20"

Page 1, line 3, remove "unemployment compensation taxes,"

Page 1, line 4, replace the comma with a semicolon and replace "workers' compensation premiums" with "to provide an effective date"

Page 1, remove lines 6 through 22

Page 2, remove lines 1 through 6

Page 2, line 15, after "the" insert "previous" and replace "can reasonably be expected to be" with "was"

Page 2, line 16, remove "not be"

Page 2, line 17, remove "required to", replace the first "a" with "an annual", and remove "more than once in a calendar year"

Page 2, replace lines 23 through 28 with:

"SECTION 2. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 1995."

Page 3, remove lines 1 through 16

Re-number accordingly

**REPORT OF STANDING COMMITTEE**

SB 2436: Finance and Taxation Committee (Sen. Tennefos, Chairman) recommends DO NOT PASS (5 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2436 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

SB 2480: Human Services Committee (Sen. Thane, Chairman) recommends DO PASS (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2480 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

SB 2501: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends DO PASS (5 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). SB 2501 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

SB 2520: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends DO PASS (5 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). SB 2520 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

SB 2523: Human Services Committee (Sen. Thane, Chairman) recommends DO PASS (5 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). SB 2523 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

SCR 4007: Education Committee (Sen. Freborg, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS and BE PLACED ON THE CONSENT CALENDAR (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SCR 4007 was placed on the Sixth order on the calendar.

Page 1, line 4, after "with" insert "assisting in"

Re-number accordingly

**REPORT OF STANDING COMMITTEE**

SCR 4025: Finance and Taxation Committee (Sen. Tennefos, Chairman) recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SCR 4025 was placed on the Eleventh order on the calendar.

**FIRST READING OF SENATE CONCURRENT RESOLUTION**

Sens. Holmberg, Grindberg, C. Nelson introduced:

SCR 4047: A concurrent resolution directing the Legislative Council to study refugee resettlements in the state and the fiscal effects of refugees on school districts and the providers of social services.

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

**FIRST READING OF HOUSE BILL**

**HB 1007:** A BILL for an Act to provide an appropriation for defraying the expenses of the Indian affairs commission.

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

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

**William C. Parker, Secretary**