

## JOURNAL OF THE SENATE

## Fifty-sixth Legislative Assembly

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Bismarck, January 29, 1999

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

The prayer was offered by Rev. Randy Mantik, Evangel Temple, Bismarck.

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

A quorum was declared by the President.

**MOTION**

**SEN. G. NELSON MOVED** that the Senate reconsider its action whereby SB 2068 passed, which motion prevailed on a verification vote.

**MOTION**

**SEN. G. NELSON MOVED** that SB 2068 be rereferred to the **Education Committee**, which motion prevailed. Pursuant to Sen. G. Nelson's motion, SB 2068 was rereferred.

**MOTION**

**SEN. ST. AUBYN MOVED** that SB 2276 and SB 2434 be returned to the Senate floor from the **Industry, Business and Labor Committee** and be rereferred to the **Transportation Committee**, which motion prevailed. Pursuant to Sen. St. Aubyn's motion, SB 2276 and SB 2434 were rereferred.

**MOTION**

**SEN. ST. AUBYN MOVED** that SB 2277, which is on the Eleventh order, be rereferred to the **Appropriations Committee**, which motion prevailed. Pursuant to Sen. St. Aubyn's motion, SB 2277 was rereferred.

**CONSIDERATION OF AMENDMENTS**

**SB 2058: SEN. WATNE (Judiciary Committee) MOVED** that the amendments on SJ page 184 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

**CONSIDERATION OF AMENDMENTS**

**SB 2125: SEN. W. STENEHJEM (Judiciary Committee) MOVED** that the amendments on SJ pages 184-185 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

**CONSIDERATION OF AMENDMENTS**

**SB 2133: SEN. C. NELSON (Judiciary Committee) MOVED** that the amendments on SJ page 185 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

**CONSIDERATION OF AMENDMENTS**

**SB 2185: SEN. LYSON (Judiciary Committee) MOVED** that the amendments on SJ page 185 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

**CONSIDERATION OF AMENDMENTS**

**SB 2186: SEN. WATNE (Judiciary Committee) MOVED** that the amendments on SJ pages 185-186 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

**CONSIDERATION OF AMENDMENTS**

**SB 2249: SEN. C. NELSON (Judiciary Committee) MOVED** that the amendments on SJ page 186 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

**SECOND READING OF SENATE BILL**

**SB 2169:** A BILL for an Act to create and enact chapter 59-04.2 of the North Dakota Century Code, relating to the Uniform Principal and Income Act (1997); and to repeal chapter

59-04.1 of the North Dakota Century Code, relating to the Uniform Principal and Income Act.

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

**YEAS:** Andrist; Bercier; Bowman; Christmann; Cook; DeMers; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kelsh; Kilzer; Kinnoin; Klein; Krauter; Krebsbach; Kringstad; Kroeplin; Lee; Lindaas; Lyson; Mathern, D.; Mathern, T.; Mutch; Mutzenberger; Naaden; Nelson, C.; Nelson, G.; Nething; O'Connell; Redlin; Robinson; Sand; Schobinger; Solberg; St. Aubyn; Stenehjem, B.; Stenehjem, W.; Thane; Thompson; Tomac; Traynor; Urlacher; Wanzek; Wardner; Watne

**ABSENT AND NOT VOTING:** Tallackson

Engrossed SB 2169 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 sections 30.1-03-03, 30.1-09-08, subsection 3 of section 30.1-10-03, subsection 2 of section 30.1-10-04, subsection 2 of section 30.1-18-03, and subsection 1 of section 30.1-19-03 of the North Dakota Century Code, relating to the Uniform Probate Code.

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

**YEAS:** Andrist; Bercier; Bowman; Christmann; Cook; DeMers; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kelsh; Kilzer; Kinnoin; Klein; Krauter; Krebsbach; Kringstad; Kroeplin; Lee; Lindaas; Lyson; Mathern, D.; Mathern, T.; Mutch; Mutzenberger; Naaden; Nelson, C.; Nelson, G.; Nething; O'Connell; Redlin; Robinson; Sand; Schobinger; Solberg; St. Aubyn; Stenehjem, B.; Stenehjem, W.; Thane; Thompson; Tomac; Traynor; Urlacher; Wanzek; Wardner; Watne

**ABSENT AND NOT VOTING:** Tallackson

Engrossed SB 2174 passed and the title was agreed to.

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#### SECOND READING OF SENATE BILL

**SB 2177:** A BILL for an Act to create and enact sections 57-43.1-06.1, 57-43.1-12.1, 57-43.1-14.1, 57-43.1-14.2, 57-43.1-15.1, 57-43.1-16.1, 57-43.1-16.2, 57-43.1-45, 57-43.1-46, 57-43.1-47, 57-43.2-04.2, 57-43.2-04.3, 57-43.2-04.4, 57-43.2-07.1, 57-43.2-07.2, 57-43.2-11.1, 57-43.2-11.2, 57-43.2-14.1, 57-43.2-38, 57-43.2-39, 57-43.2-40, 57-43.3-08, 57-43.3-09, 57-43.3-10, 57-43.3-11, 57-43.3-12, 57-43.3-13, 57-43.3-14, 57-43.3-15, 57-43.3-16, 57-43.3-17, 57-43.3-18, 57-43.3-19, 57-43.3-20, 57-43.3-21, 57-43.3-22, 57-43.3-23, 57-43.3-24, 57-43.3-25, 57-43.3-26, 57-43.3-27, and 57-43.3-28 of the North Dakota Century Code, relating to the motor vehicle fuel tax, the special fuel tax, interstate motor carriers tax, and the aviation fuel tax; to amend and reenact sections 57-43.1-01, 57-43.1-02, 57-43.1-04, 57-43.1-06, 57-43.1-08, 57-43.1-11, 57-43.1-13, 57-43.1-14, 57-43.1-15, 57-43.1-16, 57-43.1-17, 57-43.1-17.1, 57-43.1-21, 57-43.1-24, 57-43.1-25, 57-43.1-26, 57-43.1-27, 57-43.1-28, 57-43.1-30, 57-43.1-32, 57-43.2-01, 57-43.2-02, 57-43.2-02.2, 57-43.2-03, 57-43.2-04.1, 57-43.2-05, 57-43.2-07, 57-43.2-08, 57-43.2-09, 57-43.2-10, 57-43.2-11, 57-43.2-14, 57-43.2-15, 57-43.2-19, 57-43.2-20, 57-43.2-21, 57-43.2-22, 57-43.3-01, 57-43.3-02, 57-43.3-03, and 57-43.3-04 of the North Dakota Century Code, relating to the motor vehicle fuel tax, the special fuel tax, and the aviation fuel tax; to repeal sections 57-43.1-18, 57-43.1-20, 57-43.1-22, 57-43.1-23, 57-43.1-31, 57-43.1-33, 57-43.1-34, 57-43.1-35, 57-43.1-36, 57-43.1-37, 57-43.1-38, 57-43.1-39, 57-43.1-40, 57-43.1-42, 57-43.1-42.1, 57-43.1-43, 57-43.2-04, 57-43.2-06, 57-43.2-12, 57-43.2-13, 57-43.2-16, 57-43.2-17, 57-43.2-18, 57-43.2-23, 57-43.2-24, 57-43.2-25, 57-43.2-26, 57-43.2-27, 57-43.2-28, 57-43.2-29, 57-43.2-30, 57-43.2-31, 57-43.2-32, 57-43.2-33, 57-43.2-35, 57-43.2-35.1, 57-43.2-36, and 57-43.3-05 of the North Dakota Century Code, relating to

obsolete and redundant provisions of the motor vehicle fuel tax, the special fuel tax, importer for use tax, and the aviation fuel tax; and to provide penalties.

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

**YEAS:** Andrist; Bercier; Bowman; Christmann; Cook; DeMers; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kelsh; Kilzer; Kinnoin; Klein; Krauter; Krebsbach; Kringstad; Kroepflin; Lee; Lindaas; Lyson; Mathern, D.; Mathern, T.; Mutch; Mutzenberger; Naaden; Nelson, C.; Nelson, G.; Nething; O'Connell; Redlin; Robinson; Sand; Schobinger; Solberg; St. Aubyn; Stenehjem, B.; Stenehjem, W.; Thane; Thompson; Tomac; Traynor; Urlacher; Wanzek; Wardner; Watne

**ABSENT AND NOT VOTING:** Tallackson

Engrossed SB 2177 passed and the title was agreed to.

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#### SECOND READING OF SENATE BILL

**SB 2253:** A BILL for an Act to create and enact a new subdivision to subsection 1 of section 23-07.5-05 of the North Dakota Century Code, relating to confidentiality of human immunodeficiency virus infection test results; and to amend and reenact section 23-07-02.1 of the North Dakota Century Code, relating to reports of human immunodeficiency virus infection.

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

**YEAS:** Andrist; Bercier; Bowman; Christmann; Cook; DeMers; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kelsh; Kilzer; Kinnoin; Klein; Krauter; Krebsbach; Kringstad; Kroepflin; Lee; Lindaas; Lyson; Mathern, D.; Mathern, T.; Mutch; Mutzenberger; Naaden; Nelson, C.; Nelson, G.; Nething; O'Connell; Redlin; Robinson; Sand; Schobinger; Solberg; St. Aubyn; Stenehjem, B.; Stenehjem, W.; Thane; Thompson; Tomac; Traynor; Urlacher; Wanzek; Wardner; Watne

**ABSENT AND NOT VOTING:** Tallackson

Engrossed SB 2253 passed and the title was agreed to.

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#### SECOND READING OF SENATE BILL

**SB 2326:** A BILL for an Act to amend and reenact sections 6-08-16, 6-08-16.1, and subsection 1 of section 6-08-16.2 of the North Dakota Century Code, relating to authorizing an electronic funds transfer without sufficient funds; 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 48 YEAS, 0 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bercier; Bowman; Christmann; Cook; DeMers; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kelsh; Kilzer; Kinnoin; Klein; Krauter; Krebsbach; Kringstad; Kroepflin; Lee; Lindaas; Lyson; Mathern, D.; Mathern, T.; Mutch; Mutzenberger; Naaden; Nelson, C.; Nelson, G.; Nething; O'Connell; Redlin; Robinson; Sand; Schobinger; Solberg; St. Aubyn; Stenehjem, B.; Stenehjem, W.; Thane; Thompson; Tomac; Traynor; Urlacher; Wanzek; Wardner; Watne

**ABSENT AND NOT VOTING:** Tallackson

SB 2326 passed and the title was agreed to.

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**SECOND READING OF SENATE CONCURRENT RESOLUTION**

**SCR 4008:** A concurrent resolution urging Congress and the Clinton Administration to recognize state interests and enact legislation that would prohibit the federal Department of Health and Human Services from recouping the tobacco settlement funds as third-party recoveries under Medicaid law.

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

SCR 4008 was declared adopted on a voice vote, and the title was agreed to.

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**MOTION**

**SEN. G. NELSON MOVED** that the rules be suspended and that SCR 4008 be messaged to the House immediately, which motion prevailed.

**SECOND READING OF SENATE CONCURRENT RESOLUTION**

**SCR 4009:** A concurrent resolution directing the Legislative Council to study the feasibility and desirability of eliminating county states' attorneys and creating district attorneys to provide prosecutorial services for judicial districts.

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

SCR 4009 was declared lost on a voice vote.

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**SECOND READING OF SENATE BILL**

**SB 2211:** A BILL for an Act to amend and reenact section 12.1-01-04 of the North Dakota Century Code, relating to the definition of types of bodily injury.

**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; Bercier; Bowman; Christmann; Cook; DeMers; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kelsh; Kilzer; Kinnoin; Klein; Krauter; Krebsbach; Kringstad; Kroepelin; Lee; Lindaas; Lyson; Mathern, D.; Mathern, T.; Mutch; Mutzenberger; Nelson, C.; Nelson, G.; Nething; O'Connell; Redlin; Robinson; Sand; Schobinger; Solberg; St. Aubyn; Stenehjem, B.; Stenehjem, W.; Thane; Thompson; Tomac; Traynor; Urlacher; Wanzek; Wardner; Watne

**ABSENT AND NOT VOTING:** Naaden; Tallackson

SB 2211 passed and the title was agreed to.

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**SECOND READING OF SENATE BILL**

**SB 2228:** A BILL for an Act to amend and reenact subsection 3 of section 20.1-03-11 of the North Dakota Century Code, relating to gratis and preferential landowner licenses to hunt deer.

**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 3 YEAS, 44 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

**YEAS:** Kelsh; Kinnoin; O'Connell

**NAYS:** Andrist; Bercier; Bowman; Christmann; Cook; DeMers; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Kroepelin; Lee; Lindaas; Lyson; Mathern, D.; Mathern, T.; Mutch; Mutzenberger; Nelson, C.; Nelson, G.; Nething; Redlin; Robinson; Sand; Schobinger; Solberg; St. Aubyn; Stenehjem, B.; Stenehjem, W.; Thane; Thompson; Tomac; Traynor; Urlacher; Wanzek; Wardner; Watne

**ABSENT AND NOT VOTING:** Naaden; Tallackson

SB 2228 lost.

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**MOTION**

**SEN. G. NELSON MOVED** that SB 2236 and SB 2348, which are on the Eleventh order, be rereferred to the **Finance and Taxation Committee**, which motion prevailed. Pursuant to Sen. G. Nelson's motion, SB 2236 and SB 2348 were rereferred.

**SECOND READING OF SENATE BILL**

**SB 2240:** A BILL for an Act to amend and reenact section 5-01-05.1 of the North Dakota Century Code, relating to public intoxication.

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

**YEAS:** Andrist; Bercier; Bowman; Christmann; Cook; DeMers; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kelsh; Kilzer; Kinnoin; Klein; Krauter; Krebsbach; Kringstad; Kroeplin; Lee; Lindaas; Lyson; Mathern, D.; Mathern, T.; Mutch; Mutzenberger; Naaden; Nelson, C.; Nelson, G.; Nething; O'Connell; Redlin; Robinson; Sand; Schobinger; Solberg; St. Aubyn; Stenehjem, B.; Stenehjem, W.; Thane; Thompson; Tomac; Traynor; Urlacher; Wanzek; Wardner; Watne

**ABSENT AND NOT VOTING:** Tallackson

SB 2240 passed and the title was agreed to.

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**SECOND READING OF SENATE BILL**

**SB 2290:** A BILL for an Act to amend and reenact section 40-47-01.1 of the North Dakota Century Code, relating to extraterritorial zoning.

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

**YEAS:** Andrist; Bercier; Bowman; Christmann; Cook; DeMers; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kelsh; Kilzer; Kinnoin; Klein; Krauter; Krebsbach; Kringstad; Kroeplin; Lee; Lindaas; Lyson; Mathern, D.; Mathern, T.; Mutch; Mutzenberger; Naaden; Nelson, C.; Nelson, G.; Nething; O'Connell; Redlin; Robinson; Sand; Schobinger; Solberg; St. Aubyn; Stenehjem, B.; Stenehjem, W.; Thane; Thompson; Tomac; Traynor; Urlacher; Wanzek; Wardner; Watne

**ABSENT AND NOT VOTING:** Tallackson

SB 2290 passed and the title was agreed to.

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**SECOND READING OF SENATE BILL**

**SB 2292:** A BILL for an Act to amend and reenact section 4-10.1-16 of the North Dakota Century Code, relating to the penalty for delinquent payment of assessments to the potato council.

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

**YEAS:** Andrist; Bercier; Bowman; Christmann; Cook; DeMers; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kelsh; Kilzer; Kinnoin; Klein; Krauter; Krebsbach; Kringstad; Kroeplin; Lee; Lindaas; Lyson; Mathern, D.; Mathern, T.; Mutch; Mutzenberger; Naaden; Nelson, C.; Nelson, G.; Nething; O'Connell; Redlin; Robinson;

Sand; Schobinger; Solberg; St. Aubyn; Stenehjem, B.; Stenehjem, W.; Thane; Thompson; Tomac; Traynor; Urlacher; Wanzek; Wardner; Watne

**ABSENT AND NOT VOTING:** Tallackson

SB 2292 passed and the title was agreed to.

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#### SECOND READING OF SENATE BILL

**SB 2298:** A BILL for an Act to amend and reenact section 12-63-01, subsection 2 of section 12-63-12, and section 12-63-14 of the North Dakota Century Code, relating to peace officer standards, training, and licensing.

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

**YEAS:** Andrist; Bercier; Bowman; Christmann; Cook; DeMers; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kelsh; Kilzer; Kinnoin; Klein; Krauter; Krebsbach; Kringstad; Kroeplin; Lee; Lindaas; Lyson; Mathern, D.; Mathern, T.; Mutch; Mutzenberger; Naaden; Nelson, C.; Nelson, G.; Nething; O'Connell; Redlin; Robinson; Sand; Schobinger; Solberg; St. Aubyn; Stenehjem, B.; Stenehjem, W.; Thane; Thompson; Tomac; Traynor; Urlacher; Wanzek; Wardner; Watne

**ABSENT AND NOT VOTING:** Tallackson

SB 2298 passed and the title was agreed to.

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#### SECOND READING OF SENATE BILL

**SB 2306:** A BILL for an Act to amend and reenact section 14-07.1-11 of the North Dakota Century Code, relating to arrest without warrant in domestic violence assaults.

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

**YEAS:** Andrist; Bercier; Bowman; Christmann; Cook; DeMers; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kelsh; Kilzer; Kinnoin; Klein; Krauter; Krebsbach; Kringstad; Kroeplin; Lee; Lindaas; Lyson; Mathern, D.; Mathern, T.; Mutch; Mutzenberger; Naaden; Nelson, C.; Nelson, G.; Nething; O'Connell; Redlin; Robinson; Sand; Schobinger; Solberg; St. Aubyn; Stenehjem, B.; Stenehjem, W.; Thane; Thompson; Tomac; Traynor; Urlacher; Wanzek; Wardner; Watne

**ABSENT AND NOT VOTING:** Tallackson

SB 2306 passed and the title was agreed to.

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#### SECOND READING OF SENATE BILL

**SB 2317:** A BILL for an Act to create and enact a new subsection to section 14-07.1-02 of the North Dakota Century Code, relating to protection orders; and to amend and reenact subsection 4 of section 14-07.1-03 of the North Dakota Century Code, relating to protection orders.

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

**NAYS:** Andrist; Bercier; Bowman; Christmann; Cook; DeMers; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kelsh; Kilzer; Kinnoin; Klein; Krauter; Krebsbach; Kringstad; Kroeplin; Lee; Lindaas; Lyson; Mathern, D.; Mathern, T.; Mutch; Mutzenberger; Naaden; Nelson, C.; Nelson, G.; Nething; O'Connell; Redlin; Robinson;

Sand; Schobinger; Solberg; St. Aubyn; Stenehjem, B.; Stenehjem, W.; Thane; Thompson; Tomac; Traynor; Urlacher; Wanzek; Wardner; Watne

**ABSENT AND NOT VOTING:** Tallackson

SB 2317 lost.

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### SECOND READING OF SENATE BILL

**SB 2357:** A BILL for an Act to amend and reenact subdivision g of subsection 5 of section 39-24-09 and section 39-24-11 of the North Dakota Century Code, relating to prohibited operation of snowmobiles and penalties governing the operation of snowmobiles.

### 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 31 YEAS, 17 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bowman; Christmann; Cook; Fischer; Flakoll; Freborg; Grindberg; Holmberg; Kilzer; Kinnoin; Klein; Krebsbach; Kringstad; Lee; Lyson; Mutch; Naaden; Nelson, G.; Nething; Solberg; St. Aubyn; Stenehjem, B.; Stenehjem, W.; Thane; Tomac; Traynor; Urlacher; Wanzek; Wardner; Watne

**NAYS:** Bercier; DeMers; Heitkamp; Kelsh; Krauter; Kroeplin; Lindaas; Mathern, D.; Mathern, T.; Mutzenberger; Nelson, C.; O'Connell; Redlin; Robinson; Sand; Schobinger; Thompson

**ABSENT AND NOT VOTING:** Tallackson

SB 2357 passed and the title was agreed to.

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### SECOND READING OF SENATE CONCURRENT RESOLUTION

**SCR 4014:** A concurrent resolution directing the Legislative Council to study the method of providing legal representation for indigent criminal defendants and the feasibility and desirability of establishing a public defender system.

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

SCR 4014 was declared adopted on a voice vote, and the title was agreed to.

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### MESSAGE TO THE SENATE FROM THE HOUSE (LANCE HAGEN, CHIEF CLERK)

**MADAM PRESIDENT:** The House has passed and your favorable consideration is requested on: HB 1074, HB 1151, HB 1180, HB 1186, HB 1205, HB 1235, HB 1237, HB 1248, HCR 3002, HCR 3005, HCR 3010, HCR 3016.

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

**MR. SPEAKER:** The Senate has passed and your favorable consideration is requested on: SCR 4008.

### 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 2103, SB 2119, SB 2263, SB 2265, SB 2318.

### MOTION

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

### MOTION

**SEN. ST. AUBYN 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, February 1, 1999, which motion prevailed.

### REPORT OF STANDING COMMITTEE

**SB 2036: Human Services Committee (Sen. Thane, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS**

(6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2036 was placed on the Sixth order on the calendar.

Page 1, line 1, replace "section 18-01-03.2, subsections 2 and 8 of section" with "sections"

Page 1, remove line 2

Page 1, line 3, remove "43-05-01, subsection 3 of section 50-01.2-00.1, sections 50-06-14.1," and replace ", subsection 1" with "and"

Page 1, remove line 4

Page 1, line 5, remove "sections 50-21-01, 50-21-02, 50-21-03, 50-21-04," and remove ", 50-24.5-02, subsection 7 of"

Page 1, remove line 6

Page 1, line 7, remove "substituting adult residential care for basic care"

Page 1, line 8, remove the first "and", after "living" insert "facilities", and remove "to repeal chapter 23-09.3 and section 50-06-14.3 of the North Dakota"

Page 1, line 9, remove "Century Code, relating to basic care;"

Page 1, line 10, remove the second "and" and after "date" insert "; and to provide an expiration date."

Page 1, remove lines 12 through 23

Page 2, remove lines 1 through 30

Page 3, remove lines 1 through 31

Page 4, remove lines 1 through 6

Page 4, line 9, after "**dementia**" insert "**and twenty-four hour care**"

Page 4, line 11, after "population" insert "and other aged, blind, or disabled persons who require twenty-four hour care"

Page 4, line 12, remove "adult residential" and overstrike "care" and insert immediately thereafter "assisted living facility"

Page 4, line 13, after "specific" insert "twenty-four hour" and after "targets" insert "either"

Page 4, line 14, after "population" insert "or other aged, blind, or disabled persons who require twenty-four hour care. Project costs must be met using amounts appropriated to the department. Approval preference must be given to projects that involve a reduction in nursing facility beds due to delicensing an entire nursing facility or wing of a nursing facility"

Page 4, remove lines 19 through 31

Page 5, remove lines 1 through 31

Page 6, remove lines 1 through 31

Page 7, remove lines 1 through 21

Page 7, line 25, replace "Adult residential care" with "Assisted living"

Page 7, replace lines 26 through 28 with:

"a. Makes response staff available at all times;

b. Provides housing and:

(1) Congregate meals;

(2) Kitchen facilities in each resident's living quarters; or



- (3) Any combination of congregate meals and kitchen facilities in each resident's living quarters sufficient to assure each resident adequate access to meals."

Page 8, line 5, remove "qualified"

Page 8, line 8, remove the underscored colon

Page 8, line 9, remove "(1) If an initial occupancy," and remove "chapter 22 of"

Page 8, line 10, replace "; or" with ", as applicable."

Page 8, remove lines 11 through 13

Page 9, line 13, overstrike "a", remove "qualified adult residential", and overstrike "care" and insert immediately thereafter "an assisted living"

Page 10, remove lines 11 through 31

Page 11, remove lines 1 through 31

Page 12, remove lines 1 through 21

Page 12, line 26, after "describing" insert "the conversion of current basic care and assisted living facilities into an integrated long-term housing and service system entitled assisted living. The recommendation must include", replace the second "and" with a comma, and replace "of adult" with ", and payment systems for assisted living"

Page 12, line 30, replace "Sections 1 through 22 are" with "Section 2 of this Act becomes" and after "effective" insert "on"

Page 12, after line 30, insert:

**"SECTION 5. EXPIRATION DATE.** Section 1 of this Act is effective through June 30, 2001, and after that date is ineffective."

Re-number accordingly

#### REPORT OF STANDING COMMITTEE

**SB 2200: Political Subdivisions Committee (Sen. Lee, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2200 was placed on the Sixth order on the calendar.

Page 1, line 1, replace "public health units" with "the health council" and replace "facility" with "pool"

Page 1, line 3, replace "**facility**" with "**pool**" and replace "Every local public health department and" with "The health council"

Page 1, line 4, remove "public health district", after "minimum" insert "operating", after "for" insert "public", and replace "facility safety, including" with "pools."

Page 1, remove lines 5 and 6

Re-number accordingly

#### REPORT OF STANDING COMMITTEE

**SB 2201: Political Subdivisions Committee (Sen. Lee, Chairman)** recommends **DO NOT PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2201 was placed on the Eleventh order on the calendar.

#### REPORT OF STANDING COMMITTEE

**SB 2205: Transportation Committee (Sen. B. Stenehjem, Chairman)** recommends **DO NOT PASS** (6 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). SB 2205 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2206: Transportation Committee (Sen. B. Stenehjem, Chairman)** recommends **DO NOT PASS** (6 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). SB 2206 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2214: 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 2214 was placed on the Sixth order on the calendar.

Page 3, line 5, overstrike "plus dependency allowance and"

Page 3, line 6, overstrike "earning capacity", overstrike the first "the", remove "lesser of the", and overstrike "weekly wage of the employee after"

Page 3, line 7, overstrike "deductions for social security and federal", overstrike "income tax", and remove ", or one hundred ten percent of"

Page 3, line 8, replace "the state's average weekly wage in effect on the date of first disability" with "benefit rates as defined in section 65-05-09"

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**SB 2218: Industry, Business and Labor Committee (Sen. Mutch, Chairman)** recommends **DO PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2218 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2221: Industry, Business and Labor Committee (Sen. Mutch, Chairman)** recommends **DO PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2221 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2224: Industry, Business and Labor Committee (Sen. Mutch, Chairman)** recommends **DO NOT PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2224 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2234: Industry, Business and Labor Committee (Sen. Mutch, Chairman)** recommends **DO PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2234 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2257: 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 2257 was placed on the Sixth order on the calendar.

Page 1, line 3, after "district" insert "; and to declare an emergency"

Page 1, remove line 12

Page 1, line 13, remove "office of management and budget shall"

Page 1, line 14, remove "certified"

Page 1, line 17, remove "certified"

Page 1, line 21, replace "office of management and budget" with "superintendent of public instruction"

Page 1, after line 23, insert:

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

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**SB 2261: Natural Resources 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 2266: Human Services Committee (Sen. Thane, Chairman)** recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2266 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2272: Industry, Business and Labor Committee (Sen. Mutch, Chairman)** recommends **DO PASS** (5 YEAS, 1 NAY, 1 ABSENT AND NOT VOTING). SB 2272 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2280: Political Subdivisions Committee (Sen. Lee, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2280 was placed on the Sixth order on the calendar.

Page 3, after line 8, insert:

<u>"or</u>	<u>or</u>	<u>or</u>	<u>or</u>	<u>or</u>
<u>Docu-</u>	<u>Docu-</u>	<u>Docu-</u>	<u>Docu-</u>	<u>Docu-</u>
<u>ment</u>	<u>ment</u>	<u>ment</u>	<u>ment</u>	<u>ment</u>
<u>No.</u>	<u>No.</u>	<u>No.</u>	<u>No.</u>	<u>No."</u>

Page 4, after line 2, insert:

<u>"or</u>	<u>or</u>	<u>or</u>
<u>Docu-</u>	<u>Docu-</u>	<u>Docu-</u>
<u>ment</u>	<u>ment</u>	<u>ment</u>
<u>No.</u>	<u>No.</u>	<u>No."</u>

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**SB 2282: 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 2282 was placed on the Sixth order on the calendar.

Page 2, line 7, after the underscored period insert "A retired member reemployed under the provisions of this subsection must be treated as retired for all other purposes under this chapter. Notwithstanding subdivision a of subsection 3, a retired member may not earn any additional service during the period of reemployment. The member's benefits may not be adjusted to reflect changes in the member's age or final average monthly salary at the end of the period of reemployment, any optional form of payment elected under section 15-39.1-16 remains effective during and after the period of reemployment, additional benefits normally available to an active member, such as disability benefits, are not available to a retired member reemployed under this subsection, and refunds may not be made to a retired member at the end of that person's period of reemployment."

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**SB 2288: Human Services Committee (Sen. Thane, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2288 was placed on the Sixth order on the calendar.

Page 1, line 2, remove "to provide for"

Page 1, line 3, remove "retroactive application;"

Page 1, remove lines 23 and 24

Page 2, remove lines 1 through 5

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**SB 2289: Agriculture Committee (Sen. Wanzek, Chairman)** recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2289 was rereferred to the **Appropriations Committee**.

**REPORT OF STANDING COMMITTEE**

**SB 2307: Industry, Business and Labor Committee (Sen. Mutch, Chairman)** recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2307 was rereferred to the **Appropriations Committee**.

**REPORT OF STANDING COMMITTEE**

**SB 2343: Transportation Committee (Sen. B. Stenehjem, Chairman)** recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2343 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2346: Finance and Taxation Committee (Sen. Urlacher, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2346 was placed on the Sixth order on the calendar.

Page 1, line 1, after "counties" insert ", school districts" and after the semicolon insert "and"

Page 1, line 2, remove "; and to provide an expiration date"

Page 1, line 6, after "counties" insert ", school districts"

Page 1, line 8, remove "- EXPIRATION DATE" and remove "the"

Page 1, line 9, remove "first two" and remove ", and is thereafter ineffective"

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**SB 2347: Government and Veterans Affairs Committee (Sen. Krebsbach, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2347 was placed on the Sixth order on the calendar.

Page 1, line 3, after the semicolon insert "to provide an expiration date;"

Page 2, after line 5, insert:

**"SECTION 3. EXPIRATION DATE.** This Act is effective through July 31, 2001, and after that date is ineffective."

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**SB 2355: Agriculture Committee (Sen. Wanzek, Chairman)** recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2355 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2360: Government and Veterans Affairs Committee (Sen. Krebsbach, Chairman)** recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2360 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2369: Natural Resources Committee (Sen. Traynor, Chairman)** recommends **DO PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2369 was placed on the Eleventh order on the calendar.

**FIRST READING OF SENATE CONCURRENT RESOLUTION**

Sens. Cook, Flakoll, Kelsh, O'Connell, Redlin, Wanzek introduced:

**SCR 4031:** A concurrent resolution directing the Legislative Council to study the method by which the state funds special education services.

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

**FIRST READING OF HOUSE BILLS**

**HB 1074:** A BILL for an Act to amend and reenact subsection 5 of section 43-29-01.1, subsection 1 of section 43-29-07, subsections 2 and 3 of section 43-29-07.1, and subsection 2 of section 43-29-07.2 of the North Dakota Century Code, relating to examination and licensure of veterinarians and veterinary technicians.

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

**HB 1151:** A BILL for an Act to create and enact a new section to chapter 15-20.4 of the North Dakota Century Code, relating to a voluntary application for an authorization to operate a postsecondary educational institution; to amend and reenact sections 15-20.4-01, 15-20.4-02, 15-20.4-03, 15-20.4-04, 15-20.4-05, 15-20.4-09, 15-20.4-10, 15-20.4-11, 15-20.4-12, 15-20.4-13, and 15-20.4-14 of the North Dakota Century Code, relating to authorization to operate postsecondary educational institutions and approval of agent permits; and to declare an emergency.

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

**HB 1180:** A BILL for an Act to amend and reenact subsection 1 of section 35-13-02, section 35-20-16, subsection 2 of section 35-34-04, subsection 2 of section 35-34-06, subsections 3, 5, and 6 of section 41-09-46, sections 57-38-49, 57-38-50, subsections 3, 4, and 6 of section 57-39.2-13, subsections 3, 4, and 6 of section 57-40.2-16, subsections 2, 3, and 4 of section 57-40.3-07.1, subsections 3, 4, and 6 of section 57-43.1-17.4, subsections 3, 4, and 6 of section 57-43.2-16.3, and subsections 2 and 3 of section 57-51-11 of the North Dakota Century Code, relating to the filings indexed in the central indexing system.

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

**HB 1186:** A BILL for an Act to amend and reenact sections 15-10-14.1, 15-10-17, and 15-62.3-01 of the North Dakota Century Code, relating to higher education reports, powers and duties of the state board of higher education, and definitions for the tuition assistance grant program; and to repeal sections 15-10-17.1, 15-10-18.1, 15-10-20, 15-10-23, 15-10-25.1, 15-10-34, 15-11-02, 15-11-05, 15-11-07, 15-11-21, 15-11-23, 15-11-24, 15-11-25, 15-11-31, 15-12-05, 15-12-13, 15-12-14, 15-12-15, 15-12-16, 15-12-17, 15-12-19, 15-13-05, 15-13-06, 15-13-07, 15-13-08, 15-13-09, 15-13-10, 15-13-11, and 15-13-12 of the North Dakota Century Code, relating to conduct of students, waiver of tuition for youth correctional center graduates, tuition at model schools, lease of building sites, out-of-state travel, authorization of contingency funds, colleges that may be united with the state university, courses of instruction, persons eligible as students, furnishing of supreme court reports to the law school, location of the university of North Dakota alumni building, control over the alumni building, contract for heat and light at the alumni building, assembly hall at the university, annual faculty report to state board of higher education, economic survey, state director of economic survey, collection of mineral samples, publishing of economic maps, publishing of agricultural experiment station reports, name of economic survey, annual report of normal school president, normal school degrees, separate funds for normal schools, normal schools' students' loan funds, administration of students' loan funds, participation in students' loan funds, rules governing students' loan funds, authorization to pledge rentals from residential units, and a dormitory at Mayville state university.

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

**HB 1205:** A BILL for an Act to provide for the accessibility of sexual offender and crimes against children information to law enforcement officers.

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

**HB 1235:** A BILL for an Act to amend and reenact section 40-18-22 of the North Dakota Century Code, relating to continuing education for municipal judges.

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

**HB 1237:** A BILL for an Act to amend and reenact section 29-17-11 of the North Dakota Century Code, relating to forming a jury; and to repeal section 29-17-09 of the North Dakota Century Code, relating to completing a jury panel.

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

**HB 1248:** A BILL for an Act to amend and reenact section 61-32-03 of the North Dakota Century Code, relating to drainage of sheetwater.

Was read the first time and referred to the **Natural Resources Committee**.

**FIRST READING OF HOUSE CONCURRENT RESOLUTIONS**

**HCR 3002:** A concurrent resolution directing the Legislative Council to study American Indian long-term care and case management needs, access to appropriate services, and the functional relationship between state service units and the North Dakota American Indian reservation service systems.

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

**HCR 3005:** A concurrent resolution directing the Legislative Council to study the feasibility and desirability of facilitating pro se representation in domestic relations matters.

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

**HCR 3010:** A concurrent resolution urging the Citizens Stamp Advisory Committee to approve for release a stamp honoring Louis L'Amour.

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

**HCR 3016:** A concurrent resolution directing the Legislative Council to study the qualifications, standards, and the monitoring requirements for guardianship services for incapacitated persons.

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

The Senate stood adjourned pursuant to Senator St. Aubyn's motion.

**WILLIAM C. PARKER, Secretary**