

JOURNAL OF THE SENATE

Fifty-sixth Legislative Assembly

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Bismarck, January 26, 1999

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

The prayer was offered by Chaplain George Walker, Bismarck Law Enforcement Chaplaincy, Bismarck.

The roll was called and all members were present.

A quorum was declared by the President.

MOTION

SEN. B. STENEHJEM MOVED that SB 2122 be returned to the Senate floor from the **Transportation Committee** for the purpose of withdrawal, which motion prevailed.

REQUEST

SEN. B. STENEHJEM REQUESTED the unanimous consent of the Senate to withdraw SB 2122. There being no objection, it was so ordered by the President.

MOTION

SEN. ST. AUBYN MOVED that SB 2244 be returned to the Senate floor from the **Industry, Business and Labor Committee** and be rereferred to the **Political Subdivisions Committee**, which motion prevailed. Pursuant to Sen. St. Aubyn's motion, SB 2244 was rereferred.

CONSIDERATION OF AMENDMENTS

SB 2110: SEN. THOMPSON (Transportation Committee) MOVED that the amendments on SJ page 155 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

CONSIDERATION OF AMENDMENTS

SB 2130: SEN. KILZER (Government and Veterans Affairs Committee) MOVED that the amendments on SJ pages 155-156 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

CONSIDERATION OF AMENDMENTS

SB 2199: SEN. WANZEK (Education Committee) MOVED that the amendments on SJ page 156 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

CONSIDERATION OF AMENDMENTS

SB 2202: SEN. CHRISTMANN (Natural Resources Committee) MOVED that the amendments on SJ pages 156-157 be adopted and then be **REFERRED** to the **Appropriations Committee** with **DO PASS**, which motion prevailed.

SECOND READING OF SENATE BILL

SB 2066: A BILL for an Act to amend and reenact section 15-47-15 of the North Dakota Century Code, or in the alternative to amend and reenact section 15.1-09-34 of the North Dakota Century Code, relating to school district bid requirements for used motor vehicles.

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 49 YEAS, 0 NAYS, 0 EXCUSED, 0 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.; Tallackson; Thane; Thompson; Tomac; Traynor; Urlacher; Wanzek; Wardner; Watne

Engrossed SB 2066 passed and the title was agreed to.

SECOND READING OF SENATE BILL

SB 2156: A BILL for an Act to create and enact a new section to chapter 26.1-02 of the North Dakota Century Code, relating to adoption of the national association of insurance commissioners accounting practices and procedures manual.

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 49 YEAS, 0 NAYS, 0 EXCUSED, 0 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.; Tallackson; Thane; Thompson; Tomac; Traynor; Urlacher; Wanzek; Wardner; Watne

Engrossed SB 2156 passed and the title was agreed to.

SECOND READING OF SENATE BILL

SB 2161: A BILL for an Act to create and enact a new subsection to section 39-01-01 of the North Dakota Century Code, relating to the definition of recreational vehicle; and to amend and reenact subsection 67 of section 39-01-01, subsection 2 of section 39-04-36, section 39-05-17.2, subparagraph a of paragraph 3 of subdivision b of subsection 2 of section 39-06-14, and section 39-18-01 of the North Dakota Century Code, relating to vehicle registration fee credits, motor vehicle body damage disclosure, and correction of statutory references.

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, 1 NAY, 0 EXCUSED, 0 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; Solberg; St. Aubyn; Stenehjem, B.; Stenehjem, W.; Tallackson; Thane; Thompson; Tomac; Traynor; Urlacher; Wanzek; Wardner; Watne

NAYS: Schobinger

Engrossed SB 2161 passed and the title was agreed to.

SECOND READING OF SENATE BILL

SB 2181: A BILL for an Act to amend and reenact sections 26.1-01-07, 26.1-11-06, 26.1-11-07, 26.1-26-01, 26.1-26-02, 26.1-26-03, 26.1-26-04, 26.1-26-05, 26.1-26-06, 26.1-26-08, 26.1-26-09, 26.1-26-10, 26.1-26-13, 26.1-26-14, 26.1-26-20, 26.1-26-21, 26.1-26-22, 26.1-26-23, 26.1-26-24, 26.1-26-25, 26.1-26-31, 26.1-26-32, 26.1-26-34, 26.1-26-37, 26.1-26-38, 26.1-26-40, 26.1-26-41, 26.1-26-42, 26.1-26-46, and 26.1-39-09.2 of the North Dakota Century Code, relating to fees charged by commissioner, reciprocal penalties of foreign insurance companies, countersignature requirements, and insurance agents; and to repeal sections 26.1-26-47 and 26.1-39-09.1 of the North Dakota Century Code, relating to insurance agents and property and casualty insurance programs.

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 49 YEAS, 0 NAYS, 0 EXCUSED, 0 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.; Tallackson; Thane; Thompson; Tomac; Traynor; Urlacher; Wanzek; Wardner; Watne

Engrossed SB 2181 passed and the title was agreed to.

SECOND READING OF SENATE BILL

SB 2198: A BILL for an Act to amend and reenact section 40-05.1-07 of the North Dakota Century Code, relating to the amendment or repeal of city home rule charters.

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 49 YEAS, 0 NAYS, 0 EXCUSED, 0 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.; Tallackson; Thane; Thompson; Tomac; Traynor; Urlacher; Wanzek; Wardner; Watne

Engrossed SB 2198 passed and the title was agreed to.

SECOND READING OF SENATE BILL

SB 2111: A BILL for an Act to amend and reenact subsection 4 of section 54-44-11 of the North Dakota Century Code, relating to a continuing appropriation for the state personnel training and development operating fund.

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 49 YEAS, 0 NAYS, 0 EXCUSED, 0 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.; Tallackson; Thane; Thompson; Tomac; Traynor; Urlacher; Wanzek; Wardner; Watne

SB 2111 passed and the title was agreed to.

SECOND READING OF SENATE BILL

SB 2135: A BILL for an Act to amend and reenact section 6-03-07 of the North Dakota Century Code, relating to banking association investments.

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 49 YEAS, 0 NAYS, 0 EXCUSED, 0 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.; Tallackson; Thane; Thompson; Tomac; Traynor; Urlacher; Wanzek; Wardner; Watne

SB 2135 passed and the title was agreed to.

SECOND READING OF SENATE BILL

SB 2216: A BILL for an Act to create and enact a new section to chapter 5-01 of the North Dakota Century Code, relating to the shipment of alcoholic beverages; 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 37 YEAS, 12 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

YEAS: Andrist; Bercier; Bowman; Christmann; Cook; DeMers; Flakoll; Heitkamp; Holmberg; Kelsh; Kilzer; Kinnoin; Klein; Krauter; Krebsbach; Kringstad; Kroeplin; Lindaas; Lyson; Mathern, D.; Mathern, T.; Mutzenberger; Nelson, C.; Nething; O'Connell; Redlin; Robinson; Sand; St. Aubyn; Stenehjem, B.; Tallackson; Thane; Thompson; Tomac; Urlacher; Wanzek; Wardner

NAYS: Fischer; Freborg; Grindberg; Lee; Mutch; Naaden; Nelson, G.; Schobinger; Solberg; Stenehjem, W.; Traynor; Watne

SB 2216 passed and the title was agreed to.

SECOND READING OF SENATE BILL

SB 2251: A BILL for an Act to amend and reenact sections 26.1-38.1-01, 26.1-38.1-02, 26.1-38.1-03, 26.1-38.1-05, 26.1-38.1-06; subsection 5 of section 26.1-38.1-07, subsection 3 of section 26.1-38.1-08; sections 26.1-38.1-09, 26.1-38.1-10, 26.1-38.1-11, 26.1-38.1-12, and 26.1-38.1-16 of the North Dakota Century Code, relating to the life and health insurance guaranty association and the related duties and powers of the insurance commissioner.

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 49 YEAS, 0 NAYS, 0 EXCUSED, 0 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.; Tallackson; Thane; Thompson; Tomac; Traynor; Urlacher; Wanzek; Wardner; Watne

SB 2251 passed and the title was agreed to.

SECOND READING OF SENATE BILL

SB 2364: A BILL for an Act to create and enact a new section to chapter 43-15 of the North Dakota Century Code, relating to parenteral pharmacists; and to amend and reenact section 43-15-01 of the North Dakota Century Code, relating to pharmacy definitions.

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 49 YEAS, 0 NAYS, 0 EXCUSED, 0 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.; Tallackson; Thane; Thompson; Tomac; Traynor; Urlacher; Wanzek; Wardner; Watne

SB 2364 passed and the title was agreed to.

SECOND READING OF SENATE CONCURRENT RESOLUTION

SCR 4001: 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.

SCR 4001 was declared adopted on a voice vote, and the title was agreed to.

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 1042, HB 1064, HB 1159, HB 1215, HB 1255, HB 1271, HB 1318.

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 2042, SB 2209, SB 2229, SB 2231, SB 2238, SCR 4006.

MOTION

SEN. ST. AUBYN MOVED that the Senate be on the Fifth and Thirteenth orders of business and at the conclusion of those orders, the Senate stand adjourned until 1:00 p.m., Wednesday, January 27, 1999, which motion prevailed.

REPORT OF STANDING COMMITTEE

SB 2053: Finance and Taxation Committee (Sen. Urlacher, Chairman) recommends **DO NOT PASS** (6 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). SB 2053 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2119: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2119 was placed on the Sixth order on the calendar.

Page 1, line 1, after "reenact" insert "sections 35-17-08, 35-29-05, 35-30-06, 35-31-06, and"

Page 1, line 2, remove "central index" and after "state" insert "and county register of deeds"

Page 1, after line 3, insert:

"SECTION 1. AMENDMENT. Section 35-17-08 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

35-17-08. Fees - Penalty. The fee for filing an agister's lien with the secretary of state or the county register of deeds is ~~five ten~~ dollars. The fee for filing a termination statement is five dollars. The termination fee must be paid at the time the fee for filing the lien is paid. The fee for filing an amendment or assignment of an agister's lien is ~~five ten~~ dollars. If a lienholder fails to file a termination statement within sixty days after the lien is satisfied, the lienholder is liable to the debtor for one hundred dollars.

SECTION 2. AMENDMENT. Section 35-29-05 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

35-29-05. Fees.

1. The fee for filing and indexing each notice of lien is:
 - a. For a lien on real estate, five dollars, plus two dollars for the second and each succeeding page.
 - b. For a lien on tangible and intangible personal property, ~~five ten~~ dollars.
 - c. For a certificate of discharge or subordination, ~~five ten~~ dollars.
 - d. For a nonstandard statement when presented for filing, an additional fee of five dollars plus one dollar per page.

- e. For all other notices, including a certificate of release or nonattachment, five dollars.
2. The officer may not file or record an instrument under this chapter unless the person offering the instrument for filing or recording has first paid the requisite filing or recording fee.

SECTION 3. AMENDMENT. Section 35-30-06 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

35-30-06. Fees - Penalty. The fee for filing an agricultural processor's lien with the secretary of state or the county register of deeds is ~~five~~ ten dollars. The fee for filing a termination statement is five dollars. The termination fee must be paid at the time the fee for filing the lien is paid. The fee for filing an amendment or assignment of an agricultural processor's lien is ~~five~~ ten dollars. If a lienholder fails to file a termination statement within sixty days after the lien has been satisfied, the lienholder is liable to the debtor for one hundred dollars.

SECTION 4. AMENDMENT. Section 35-31-06 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

35-31-06. Fees - Penalty. The fee for filing an agricultural supplier's lien with the secretary of state or the county register of deeds is ~~five~~ ten dollars. The fee for filing a termination statement is five dollars. The termination fee must be paid at the time the fee for filing the lien is paid. The fee for filing an amendment or assignment of an agricultural supplier's lien is ~~five~~ ten dollars. If a lienholder fails to file a termination statement within sixty days after the lien has been satisfied, the lienholder is liable to the debtor for one hundred dollars."

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2263: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2263 was placed on the Sixth order on the calendar.

Page 5, after line 2, insert:

"d. Workers' compensation insurance, including any contract indemnifying an employer who pays compensation directly to employees;"

Page 5, line 3, replace "d" with "e"

Page 5, line 8, replace "e" with "f"

Page 6, remove lines 26 and 27

Page 6, line 28, replace "(2)" with "(1)"

Page 6, line 30, replace "(3)" with "(2)"

Page 7, line 9, remove "The association shall pay only that amount of each unearned"

Page 7, remove line 10

Page 7, line 16, remove "except in the case"

Page 7, line 17, remove "of a claim for benefits under workers' compensation coverage,"

Page 13, line 13, remove "and"

Page 13, line 16, after "chapter" insert "; and

c. Any insured who is not a resident of this state at the time of the insured event, except for first-party covered claims for property damage to an insured's property that is permanently located in this state"

Page 13, line 27, remove "The expenses of the association or similar organization in"

Page 13, remove line 28

Page 14, line 14, remove ", and if the claim is a workers"

Page 14, remove line 15

Page 14, line 16, remove "the residence of the claimant"

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2334: Finance and Taxation Committee (Sen. Urlacher, Chairman) recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2334 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SCR 4004: Human Services Committee (Sen. Thane, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SCR 4004 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1054: Finance and Taxation Committee (Sen. Urlacher, Chairman) recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1054 was placed on the Fourteenth order on the calendar.

FIRST READING OF HOUSE BILLS

HB 1042: A BILL for an Act to amend and reenact sections 11-17-04, 11-26-04, 26.1-02-19, 28-20.1-05, 30.1-21-08, 30.1-32-02, 35-18-04, 35-21-05, 43-01-19, and 57-22-32 of the North Dakota Century Code, relating to filing fees charged by the clerk of district court; to provide an effective date; and to declare an emergency.

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

HB 1064: A BILL for an Act to amend and reenact sections 15-34.1-12 and 15-34.1-12.1 of the North Dakota Century Code, relating to the provision of home education to developmentally disabled children with autism.

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

HB 1159: A BILL for an Act to amend and reenact sections 43-13-17 and 43-13-18 of the North Dakota Century Code, relating to licensure of optometrists by examination and endorsement.

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

HB 1215: A BILL for an Act to amend and reenact subsection 1 of section 39-29-01 of the North Dakota Century Code, relating to all-terrain vehicles.

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

HB 1255: A BILL for an Act to provide a self-critical insurance analysis privilege.

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

HB 1271: A BILL for an Act to create and enact a new section to chapter 57-02 of the North Dakota Century Code, relating to the protection of certain commercial information provided for assessment purposes.

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

HB 1318: A BILL for an Act to amend and reenact subsection 2 of section 40-05.1-06 of the North Dakota Century Code, relating to removal of authority of home rule cities to impose income taxes.

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

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

WILLIAM C. PARKER, Secretary