

**JOURNAL OF THE SENATE**

**Fifty-ninth Legislative Assembly**

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**Bismarck, January 18, 2005**

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

The prayer was offered by Pastor Myron Grueneich, Dakota Hills Church, Bismarck.

The roll was called and all members were present.

A quorum was declared by the President.

**CONSIDERATION OF AMENDMENTS**

**SB 2116: SEN. J. LEE (Government and Veterans Affairs Committee) MOVED** that the amendments on SJ page 97 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

**SECOND READING OF SENATE BILL**

**SB 2078:** A BILL for an Act to amend and reenact sections 15-10-37 and 15-10-38 of the North Dakota Century Code, relating to eligibility for loans under the technology occupations student loan program and eligibility for loan forgiveness under the teacher shortages loan forgiveness program.

**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, 1 NAY, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

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

**NAYS:** Cook

Engrossed SB 2078 passed and the title was agreed to.

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**SECOND READING OF SENATE BILL**

**SB 2138:** A BILL for an Act to amend and reenact subsection 3 of section 10-06.1-10 of the North Dakota Century Code, relating to the composition of the natural areas acquisition advisory committee.

**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, 0 ABSENT AND NOT VOTING.

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

Engrossed SB 2138 passed and the title was agreed to.

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**SECOND READING OF SENATE BILL**

**SB 2034:** A BILL for an Act to amend and reenact section 15-10-12 of the North Dakota Century Code, relating to the appropriation of higher education institutions' special revenue funds; 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 47 YEAS, 0 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

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

SB 2034 passed, the title was agreed to, and the emergency clause was declared carried.

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**SECOND READING OF SENATE BILL**

**SB 2035:** A BILL for an Act to amend and reenact sections 54-44.1-04 and 54-44.1-06 of the North Dakota Century Code, relating to budget requests and block grant appropriations for the North Dakota university system; 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 47 YEAS, 0 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

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

SB 2035 passed, the title was agreed to, and the emergency clause was declared carried.

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**SECOND READING OF SENATE BILL**

**SB 2103:** A BILL for an Act to amend and reenact subsection 1 of section 57-38.3-02 and sections 57-38.3-05 and 57-38.3-06 of the North Dakota Century Code, relating to definitions and procedures for purposes of income tax setoffs.

**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, 0 ABSENT AND NOT VOTING.

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

SB 2103 passed and the title was agreed to.

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**SECOND READING OF SENATE BILL**

**SB 2158:** A BILL for an Act to create and enact a new subsection to section 57-35.3-05 of the North Dakota Century Code, relating to a financial institutions tax credit for contributions made for tuition scholarships to rural leadership North Dakota; and to provide an effective date.

**ROLL CALL**

The question being on the final passage of the bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 47 YEAS, 0 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bercier; Bowman; Brown; Christmann; Cook; Dever; Erbele; Espegard; Every; Fairfield; Fischer; Flakoll; Freborg; Grindberg; Hacker; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Mutch; Nelson; Nething; O'Connell; Robinson; Schobinger; Seymour; Stenehjerm; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Triplett; Urlacher; Wardner; Warner

SB 2158 passed and the title was agreed to.

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**SECOND READING OF SENATE BILL**

**SB 2167:** A BILL for an Act to amend and reenact subsection 5 of section 30.1-31-21 of the North Dakota Century Code, relating to the definition of security account for purposes of the uniform probate code.

**ROLL CALL**

The question being on the passage of the bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 47 YEAS, 0 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bercier; Bowman; Brown; Christmann; Cook; Dever; Erbele; Espegard; Every; Fairfield; Fischer; Flakoll; Freborg; Grindberg; Hacker; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Mutch; Nelson; Nething; O'Connell; Robinson; Schobinger; Seymour; Stenehjerm; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Triplett; Urlacher; Wardner; Warner

SB 2167 passed and the title was agreed to.

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**SECOND READING OF SENATE BILL**

**SB 2175:** A BILL for an Act to amend and reenact section 6-03-05 of the North Dakota Century Code, relating to real estate appraisal requirements for real estate loans by banks.

**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, 0 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bercier; Bowman; Brown; Christmann; Cook; Dever; Erbele; Espegard; Every; Fairfield; Fischer; Flakoll; Freborg; Grindberg; Hacker; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Mutch; Nelson; Nething; O'Connell; Robinson; Schobinger; Seymour; Stenehjerm; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Triplett; Urlacher; Wardner; Warner

SB 2175 passed and the title was agreed to.

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**SECOND READING OF SENATE BILL**

**SB 2189:** A BILL for an Act to amend and reenact section 23-01-05.3 of the North Dakota Century Code, relating to the exchange of immunization data.

**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, 0 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bercier; Bowman; Brown; Christmann; Cook; Dever; Erbele; Espegard; Every; Fairfield; Fischer; Flakoll; Freborg; Grindberg; Hacker; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Mutch; Nelson; Nething; O'Connell; Robinson; Schobinger; Seymour; Stenehjerm; Syverson;

Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Triplett; Urlacher; Wardner; Warner

SB 2189 passed and the title was agreed to.

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#### MOTION

**SEN. CHRISTMANN MOVED** that SB 2249 be returned to the Senate floor from the **Industry, Business and Labor Committee** and be rereferred to the **Judiciary Committee**, which motion prevailed. Pursuant to Sen. Christmann's motion, SB 2249 was rereferred.

#### MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)

**MR. SPEAKER:** The Senate has passed and your favorable consideration is requested on: SB 2029, SB 2043, SB 2049, SB 2072, SB 2089, SB 2092, SB 2095, SB 2098, SB 2110, SB 2114, SB 2125, SB 2156.

#### MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)

**MR. SPEAKER:** The Senate has passed, the emergency clause carried, and your favorable consideration is requested on: SB 2066.

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

**MR. PRESIDENT:** The House has passed and your favorable consideration is requested on: HB 1051, HB 1164, HB 1208, HB 1219.

#### MOTION

**SEN. CHRISTMANN MOVED** that the Senate be on the Fifth, Ninth, and Thirteenth orders of business and at the conclusion of those orders, the Senate stand adjourned until 1:00 p.m., Wednesday, January 19, 2005, which motion prevailed.

#### REPORT OF STANDING COMMITTEE

**SB 2030: Judiciary Committee (Sen. Traynor, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2030 was placed on the Sixth order on the calendar.

Page 1, line 11, after "ward" insert "and provide a copy of the report to the ward"

Page 1, line 12, after the underscored period insert "The guardian shall report whether the ward has resided in an institution, whether the ward continues to require guardianship, and whether any powers of the guardian should be increased or limited."

Page 1, line 19, after the underscored period insert "Any report must be similar in substance to the state court administrator's form."

Page 2, line 21, after the underscored period insert "The guardian shall report whether the ward has resided in an institution, whether the ward continues to require guardianship, and whether any powers of the guardian should be increased or limited."

Page 2, line 29, after the underscored period insert "Any report must be similar in substance to the state court administrator's form."

Page 3, line 5, after "30.1-28-12" insert ", fails to file a report at other times as the court may direct"

Page 3, line 10, remove "with the court's previous orders"

Page 3, line 24, after the first "accounting" insert "and provide a copy of the report or accounting to the protected person"

Page 4, line 5, after the underscored period insert "Any report must be similar in substance to the state court administrator's form."

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**SB 2046: Finance and Taxation Committee (Sen. Urlacher, Chairman)** recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2046 was rereferred to the **Appropriations Committee**.

**REPORT OF STANDING COMMITTEE**

**SB 2068: Human Services Committee (Sen. J. Lee, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2068 was placed on the Sixth order on the calendar.

Page 1, line 8, replace "ten" with "twelve" and replace "seven" with "nine"

Page 1, line 17, overstrike "five" and insert immediately thereafter "six" and overstrike "Four" and insert immediately thereafter "Five"

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**SB 2079: Education Committee (Sen. Freborg, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2079 was placed on the Sixth order on the calendar.

Page 1, line 3, after "firefighters" insert ", emergency medical technicians,"

Page 1, line 23, after "**firefighter**" insert ", emergency medical technician," and after "firefighter" insert ", emergency medical technician,"

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**SB 2105: Judiciary Committee (Sen. Traynor, Chairman)** recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2105 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2111: Industry, Business and Labor Committee (Sen. Mutch, Chairman)** recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2111 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2148: Judiciary Committee (Sen. Traynor, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 6 ABSENT AND NOT VOTING). SB 2148 was placed on the Sixth order on the calendar.

Page 1, line 3, after "12-47-11" insert ", 12-47-12"

Page 3, after line 9, insert:

**"SECTION 5. AMENDMENT.** Section 12-47-12 of the North Dakota Century Code is amended and reenacted as follows:

**12-47-12. Warden to make rules.** The warden, subject to the approval of the director of the ~~division of adult services~~department of corrections and rehabilitation, shall make rules not in conflict with the laws of this state and shall prescribe penalties for violation of the rules:

1. For the admission of visitors, but admission of visitors may not be limited to less than four days in each week, subject to the space limitations of the facility.
2. For the government of officers and employees of the penitentiary.
3. For the conduct of ~~persons~~ offenders imprisoned in the penitentiary.

A printed copy of the rules must be furnished to each ~~person~~ person offender imprisoned in the penitentiary at the time of admission and to each official or employee of the penitentiary at the time of hire. Two copies of the rules must be furnished to the state law library for the use of the state officials and the public. The rules must be explained to ~~a prisoner~~ an offender who cannot read English."

Page 5, line 2, replace "may" with "shall"

Page 6, line 23, after "employed" insert "The"

Page 9, line 3, remove "daily"

Page 10, line 3, remove the overstrike over "~~the~~"

Page 10, line 13, after "The" insert "offender shall submit a signed"

Page 10, line 14, after "application" insert "which"

Page 10, line 15, remove "include" and overstrike "the name"

Page 10, line 16, overstrike "and address of the proposed employer, if any, and" and after "~~contain~~" insert "include"

Page 10, line 19, overstrike "The", remove "offender shall sign the application", and overstrike "prior to"

Page 10, line 20, overstrike "participation in the program."

Page 10, line 22, overstrike "parole board and" and remove "the director of"

Page 10, line 23, remove "the"

Page 11, line 3, remove "and to offenders who have been on work or education"

Page 11, line 4, remove "release programs for at least thirty days"

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**SB 2159: Human Services Committee (Sen. J. Lee, Chairman)** recommends **DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2159 was placed on the Eleventh order on the calendar.

#### REPORT OF STANDING COMMITTEE

**SB 2163: Education Committee (Sen. Freborg, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2163 was placed on the Sixth order on the calendar.

Page 1, line 11, replace "physician" with "health care provider"

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**SB 2180: Judiciary Committee (Sen. Traynor, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2180 was placed on the Sixth order on the calendar.

Page 1, line 13, overstrike "order" and insert immediately thereafter "document"

Page 1, line 14, after "tenancy" insert "or a life estate"

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**SB 2181: Judiciary Committee (Sen. Traynor, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2181 was placed on the Sixth order on the calendar.

Page 1, line 14, overstrike "A copy of the affidavit of renewal and the docket entries thereon, certified"

Page 1, overstrike lines 15 and 16

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**SB 2182: Judiciary Committee (Sen. Traynor, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2182 was placed on the Sixth order on the calendar.

Page 1, line 3, replace "may" with "is" and remove "be"

Renumber accordingly

**FIRST READING OF SENATE BILLS**

Sens. Klein, Flakoll, Krauter and Reps. Brandenburg, Schmidt, Weisz introduced:

**SB 2279:** A BILL for an Act to amend and reenact section 51-05.1-01.1, 60-02-03, 60-02-09, 60-02-09.1, and 60-04-06 of the North Dakota Century Code, relating to a bonding fund for auctioneers and grain warehousemen; to repeal section 60-04-03.3 of the North Dakota Century Code, relating to joinder of a surety; and to provide a continuing appropriation.

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

Sens. Heitkamp, Fischer, G. Lee and Reps. Carlson, Thoreson introduced:

**SB 2295:** A BILL for an Act to create and enact sections 61-39-06, 61-39-07, 61-39-08, 61-39-09, 61-39-10, 61-39-11, 61-39-12, 61-39-13, 61-39-14, 61-39-15, and 61-39-16 of the North Dakota Century Code, relating to issuance of bonds by the Lake Agassiz water authority; and to amend and reenact sections 61-39-01, 61-39-02, 61-39-03, and 61-39-05 of the North Dakota Century Code, relating to water supply contracts and membership of and powers of the Lake Agassiz water authority.

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

Sens. J. Lee, Brown and Reps. Boucher, Devlin, Price, Weisz introduced:

**SB 2301:** A BILL for an Act to create and enact three new sections to chapter 50-09 of the North Dakota Century Code, relating to county payment of costs of the child support agency, employment of duly appointed special assistant attorneys general, and employees of county child support agencies; to amend and reenact sections 14-09-09.10, 35-34-01, and 50-01.2-00.1, subsection 3 of section 50-01.2-03.2, sections 50-03-10 and 50-09-01, subsection 16 of section 50-09-02, and sections 50-09-03, 50-09-08, 50-09-15.1, 50-24.1-03.1, and 50-24.1-03.2 of the North Dakota Century Code, relating to state administration of the child support enforcement program; to provide a statement of legislative intent; to provide a continuing appropriation; and to provide an effective date.

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

Sen. Warner introduced:

**SB 2318:** A BILL for an Act to amend and reenact subsection 1 of section 54-05.1-03 of the North Dakota Century Code, relating to registration as a lobbyist.

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

Sens. Flakoll, Andrist, Bercier, Heitkamp and Reps. Horter, N. Johnson introduced:

**SB 2323:** A BILL for an Act to provide an appropriation for a cancer research grant.

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

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

**William R. Horton, Secretary**

