

## JOURNAL OF THE SENATE

### Fifty-ninth Legislative Assembly

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**Bismarck, January 7, 2005**

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

The prayer was offered by Reverend LaRue Goetz, Revival Prayer Fellowship, Bismarck.

The roll was called and all members were present except Senators Bowman, Brown, and Cook.

A quorum was declared by the President.

#### MOTION

**SEN. CHRISTMANN MOVED** that SB 2073, which is on the Sixth order, be laid over one legislative day, which motion prevailed.

#### CONSIDERATION OF AMENDMENTS

**SB 2139: SEN. FLAKOLL (Education Committee) MOVED** that the amendments on SJ pages 43-44 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

#### SECOND READING OF SENATE BILL

**SB 2109:** A BILL for an Act to amend and reenact section 15.1-28-01 of the North Dakota Century Code, relating to deposits paid into the state tuition 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 43 YEAS, 0 NAYS, 0 EXCUSED, 4 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bercier; Christmann; Dever; Erbele; Espegard; Every; 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

**ABSENT AND NOT VOTING:** Bowman; Brown; Cook; Fairfield

SB 2109 passed and the title was agreed to.

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#### SECOND READING OF SENATE BILL

**SB 2140:** A BILL for an Act to amend and reenact section 57-35.3-12, subsection 9 of section 57-38-38, and sections 57-38.1-01 and 57-38.1-02 of the North Dakota Century Code, relating to provisions of the corporate income tax applicable to the financial institutions tax, the time period for the assessment of additional income tax, the definition of financial organization for purposes of the Uniform Division of Income for Tax Purposes Act, and applicability of the Uniform Division of Income for Tax Purposes Act; 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 44 YEAS, 0 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bercier; Christmann; 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; Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Triplett; Urlacher; Wardner; Warner

**ABSENT AND NOT VOTING:** Bowman; Brown; Cook

SB 2140 passed and the title was agreed to.

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### SECOND READING OF SENATE BILL

**SB 2039:** A BILL for an Act to amend and reenact section 54-03.1-02 of the North Dakota Century Code, relating to the meeting of the legislative organizational session.

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

**YEAS:** Andrist; Bercier; Christmann; 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; Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Triplett; Urlacher; Wardner; Warner

**ABSENT AND NOT VOTING:** Bowman; Brown; Cook

SB 2039 passed and the title was agreed to.

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### SECOND READING OF SENATE BILL

**SB 2040:** A BILL for an Act to amend and reenact subdivisions a and b of subsection 1 of section 38-14.1-17 of the North Dakota Century Code, relating to notice of release of surface coal mining performance bonds.

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

**YEAS:** Andrist; Bercier; Christmann; 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; Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Triplett; Urlacher; Wardner; Warner

**ABSENT AND NOT VOTING:** Bowman; Brown; Cook

SB 2040 passed and the title was agreed to.

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### SECOND READING OF SENATE BILL

**SB 2075:** 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 filing of the personnel board's biennial report.

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

**YEAS:** Andrist; Bercier; Christmann; 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; Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Triplett; Urlacher; Wardner; Warner

**ABSENT AND NOT VOTING:** Bowman; Brown; Cook

SB 2075 passed and the title was agreed to.

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**SECOND READING OF SENATE BILL**

**SB 2112:** A BILL for an Act to amend and reenact sections 23-06.2-01, 23-06.2-02, and 39-06-03.1 of the North Dakota Century Code, relating to identification as an organ donor on nondriver photo identification cards.

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

**YEAS:** Andrist; Bercier; Christmann; 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; Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Triplett; Urlacher; Wardner; Warner

**ABSENT AND NOT VOTING:** Bowman; Brown; Cook

SB 2112 passed and the title was agreed to.

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**SECOND READING OF SENATE BILL**

**SB 2118:** A BILL for an Act to amend and reenact section 50-06-15 of the North Dakota Century Code, relating to confidentiality of information contained in department of human services records; 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 44 YEAS, 0 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bercier; Christmann; 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; Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Triplett; Urlacher; Wardner; Warner

**ABSENT AND NOT VOTING:** Bowman; Brown; Cook

SB 2118 passed and the title was agreed to.

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**SECOND READING OF SENATE BILL**

**SB 2126:** A BILL for an Act to amend and reenact section 61-36-01 of the North Dakota Century Code, relating to membership of the Devils Lake outlet management advisory committee.

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

**YEAS:** Andrist; Bercier; Christmann; 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; Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Triplett; Urlacher; Wardner; Warner

**ABSENT AND NOT VOTING:** Bowman; Brown; Cook

SB 2126 passed and the title was agreed to.

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**SECOND READING OF SENATE BILL**

**SB 2136:** A BILL for an Act to create and enact a new section to chapter 60-02.1 of the North Dakota Century Code, relating to licensing of roving grain buyers; to amend and reenact sections 60-02.1-07 and 60-02.1-17 of the North Dakota Century Code, relating to licensing and monthly reports of grain buyers; and to repeal section 60-02.1-24 of the North Dakota Century Code, relating to notification to the public service commission of the destruction of a facility operated by a facility-based grain buyer.

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

**YEAS:** Andrist; Bercier; Christmann; 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; Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Triplett; Urlacher; Wardner; Warner

**ABSENT AND NOT VOTING:** Bowman; Brown; Cook

SB 2136 passed and the title was agreed to.

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**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 2070, SB 2080, SB 2097, SB 2104.

**MOTION**

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

**MOTION**

**SEN. CHRISTMANN MOVED** that the Senate be on the Fifth and Ninth orders of business and at the conclusion of those orders, the Senate stand adjourned until 1:00 p.m., Monday, January 10, 2005, which motion prevailed.

**REPORT OF STANDING COMMITTEE**

**SB 2096: Transportation Committee (Sen. Trenbeath, Chairman)** recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2096 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2114: Agriculture Committee (Sen. Flakoll, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2114 was placed on the Sixth order on the calendar.

Page 2, line 9, replace "shall" with "must" and remove "the"

Page 2, line 10, remove "milk plant or marketing organization for" and after "facility" insert "for which the commissioner has conducted a"

Renumber accordingly

**FIRST READING OF SENATE BILL**

Sens. Espegard, Trenbeath and Reps. Ekstrom, Klemin introduced:

**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.

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

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

**William R. Horton, Secretary**