

**JOURNAL OF THE SENATE**

**Fifty-ninth Legislative Assembly**

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**Bismarck, January 11, 2005**

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

The prayer was offered by Pastor Keith Ritchie, Cornerstone Community Church, Bismarck.

The roll was called and all members were present.

A quorum was declared by the President.

**MOTION**

**SEN. CHRISTMANN MOVED** that SB 2153 be returned to the Senate floor from the **Political Subdivisions Committee**, which motion prevailed.

**MOTION**

**SEN. CHRISTMANN MOVED** that SB 2153 be rereferred to the **Government and Veterans Affairs Committee**, which motion prevailed. Pursuant to Sen. Christmann's motion, SB 2153 was rereferred.

**SECOND READING OF SENATE BILL**

**SB 2073:** A BILL for an Act to amend and reenact subsection 6 of section 43-48-03 of the North Dakota Century Code, relating to clinical laboratory personnel licensure.

**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; 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

Engrossed SB 2073 passed and the title was agreed to.

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**SECOND READING OF SENATE BILL**

**SB 2139:** A BILL for an Act to amend and reenact section 50-30-02 of the North Dakota Century Code, relating to the North Dakota health care trust fund; and to repeal section 50-24.4-30 of the North Dakota Century Code, relating to the government nursing facility funding pool.

**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; 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

Engrossed SB 2139 passed and the title was agreed to.

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**SECOND READING OF SENATE BILL**

**SB 2071:** A BILL for an Act to amend and reenact subsection 5 of section 54-10-28 of the North Dakota Century Code, relating to the duties of the state auditor.

**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 2071 passed and the title was agreed to.

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**SECOND READING OF SENATE BILL**

**SB 2084:** A BILL for an Act to repeal section 15.1-27-33 of the North Dakota Century Code, relating to nonoperating school districts.

**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 45 YEAS, 2 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; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Mutch; Nelson; Nething; Robinson; Schobinger; Seymour; Stenehjerm; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Triplett; Urlacher; Wardner; Warner

**NAYS:** Heitkamp; O'Connell

SB 2084 passed and the title was agreed to.

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**SECOND READING OF SENATE BILL**

**SB 2091:** A BILL for an Act to amend and reenact subsection 1 of section 49-21-04 of the North Dakota Century Code, relating to filing essential services price schedules by telecommunications companies.

**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 46 YEAS, 1 NAY, 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; Mutch; Nelson; Nething; O'Connell; Robinson; Schobinger; Seymour; Stenehjerm; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Triplett; Urlacher; Wardner; Warner

**NAYS:** Mathern

SB 2091 passed and the title was agreed to.

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**SECOND READING OF SENATE BILL**

**SB 2131:** A BILL for an Act to amend and reenact subsections 7 and 8 of section 25-03.1-02 of the North Dakota Century Code, relating to the definitions of expert examiner and independent expert examiner for commitment procedures.

**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; Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Triplett; Urlacher; Wardner; Warner

SB 2131 passed and the title was agreed to.

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**SECOND READING OF SENATE CONCURRENT RESOLUTION**

**SCR 4002:** A concurrent resolution directing the Legislative Council to study the State Board of Higher Education's performance and accountability measures included in the report required by North Dakota Century Code Section 15-10-14.2.

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

SCR 4002 was declared adopted, and the title was agreed to on a voice vote.

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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 2081, SB 2096.

**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 1034, HB 1036.

**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 1075, HB 1085, HB 1094, HB 1109.

**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., Wednesday, January 12, 2005, which motion prevailed.

**REPORT OF STANDING COMMITTEE**

**SB 2045: Finance and Taxation Committee (Sen. Urlacher, Chairman)** recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2045 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2057: Judiciary Committee (Sen. Traynor, Chairman)** recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2057 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2064: Education Committee (Sen. Freborg, Chairman)** recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2064 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2076: Education Committee (Sen. Freborg, Chairman)** recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2076 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2083: 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 2083 was placed on the Sixth order on the calendar.

Page 1, line 10, after "February" insert ". The secretary of state shall transmit the report to state archivist for official and public use", remove "report", and overstrike "shall" and insert immediately thereafter "report must"

Page 1, line 11, remove the overstrike over the colon and remove "statistical data on public education in the state."

Page 1, remove the overstrike over lines 12 through 21

Page 1, after line 21, insert:

"8. Other statistical data on public education in the state."

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**SB 2103: 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 2103 was rereferred to the **Appropriations Committee**.

#### REPORT OF STANDING COMMITTEE

**SB 2108: Industry, Business and Labor Committee (Sen. Mutch, Chairman)** recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2108 was placed on the Eleventh order on the calendar.

#### FIRST READING OF SENATE BILLS

Sens. Espegard, J. Lee and Rep. Potter introduced:

**SB 2179:** A BILL for an Act to amend and reenact section 5-01-17 of the North Dakota Century Code, relating to a domestic winery license; and to declare an emergency.

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

Sens. Holmberg, Trenbeath introduced:

**SB 2180:** A BILL for an Act to amend and reenact section 11-18-03 of the North Dakota Century Code, relating to instruments recorded without auditor's certificate.

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

Sens. Holmberg, Trenbeath introduced:

**SB 2181:** A BILL for an Act to amend and reenact section 28-20-22 of the North Dakota Century Code, relating to a judgment affidavit of renewal.

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

Sens. Holmberg, Trenbeath introduced:

**SB 2182:** A BILL for an Act to provide for the validity of certain conveyances by an estate or trust.

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

Sens. Holmberg, Trenbeath introduced:

**SB 2183:** A BILL for an Act to amend and reenact section 40-50.1-03 of the North Dakota Century Code, relating to certification of townsite or subdivision plats.

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

Sen. Holmberg introduced:

**SB 2184:** A BILL for an Act to create and enact two new sections to chapter 35-03 of the North Dakota Century Code, relating to the satisfaction of a mortgage; and to provide for an application.

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

Sen. J. Lee and Reps. Keiser, Price introduced:

**SB 2185:** A BILL for an Act to amend and reenact section 50-24.1-02.7 of the North Dakota Century Code, relating to buy-in of medical assistance for individuals with disabilities.

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

Sens. Espegard, Heitkamp, Klein, Mutch and Reps. Dietrich, Monson introduced:

**SB 2186:** A BILL for an Act to create and enact chapter 26.1-25.2 of the North Dakota Century Code, relating to personal insurance loss history information.

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

Sens. Krebsbach, Grindberg, Schobinger and Reps. Carlson, Price, Ruby introduced:

**SB 2187:** A BILL for an Act to create and enact sections 26.1-27-02.1 and 26.1-27-03.1 of the North Dakota Century Code, relating to the definition of home state and bond requirements for third-party administrators; to amend and reenact section 26.1-27-03 of the North Dakota Century Code, relating to fees for acting as a third-party administrator and the penalties for acting without a third-party administrator license; to repeal section 26.1-27-04 of the North Dakota Century Code, relating to the waiver of third-party registration requirements; and to provide a penalty.

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

Sens. Cook, Fischer, Kringstad and Reps. N. Johnson, Svedjan, Timm introduced:

**SB 2188:** A BILL for an Act to amend and reenact subsection 4 of section 57-02-27.2 of the North Dakota Century Code, relating to the capitalization rate used for valuation and assessment of agricultural lands for property tax purposes; and to provide an effective date.

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

Sen. Kilzer and Rep. Porter introduced:

**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.

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

Sen. Wardner and Rep. Wald introduced:

**SB 2190:** A BILL for an Act to amend and reenact section 50-24.1-02.8 of the North Dakota Century Code, relating to transfers involving annuities.

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

Sens. Brown, Klein, Robinson and Reps. Carlson, Thorpe, Vigesaa introduced:

**SB 2191:** A BILL for an Act to create and enact sections 51-07-02.1, 51-07-02.2, and 51-07-02.3 of the North Dakota Century Code, relating to contractual relationships between automobile and truck wholesalers and retailers; to amend and reenact section 51-07-01.1 of the North Dakota Century Code, relating to the termination of a contractual relationship between automobile and truck wholesalers and retailers; and to provide for application.

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

Sens. Brown, Christmann, Krauter and Reps. Devlin, Sandvig, Uglem introduced:

**SB 2192:** A BILL for an Act to amend and reenact section 50-24.1-16 of the North Dakota Century Code, relating to medical assistance reimbursement of ambulance services.

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

Sens. Tallackson, Trenbeath and Reps. Aarsvold, Belter introduced:

**SB 2193:** A BILL for an Act to create and enact a new section to chapter 57-38 of the North Dakota Century Code, relating to income tax withholding from certain pension payments; and to provide an effective date.

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

Sens. Klein, Krebsbach and Reps. Keiser, Wald introduced:

**SB 2194:** A BILL for an Act to amend and reenact section 26.1-02-21 and 26.1-06.1-31 of the North Dakota Century Code, relating to treatment of reinsurance upon insolvency, liquidation, or dissolution and reinsurer's liability in delinquency proceedings.

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

Sens. Krebsbach, Heitkamp, Wardner and Reps. Glassheim, D. Johnson, Maragos introduced:

**SB 2195:** A BILL for an Act to amend and reenact subsection 2 of section 44-08-04 of the North Dakota Century Code, relating to reimbursement of lodging expenses and allowances for meals for state and political subdivision officers and employees.

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

Sens. Bowman, Robinson, Wardner and Reps. Hunsakor, Nicholas, Nottestad introduced:

**SB 2196:** A BILL for an Act to create and enact a new section to chapter 57-38 of the North Dakota Century Code, relating to an optional contribution by individual income taxpayers for programs and activities conducted by the silver-haired education association; to provide an appropriation; to provide a continuing appropriation; and to provide an effective date.

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

Sens. Mathern, Brown, Krauter and Reps. Conrad, Ekstrom, S. Kelsh introduced:

**SB 2197:** A BILL for an Act to amend and reenact section 35-20-17 of the North Dakota Century Code, relating to a landlord's mobile home lien.

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

Sens. Taylor, Brown, Lyson and Reps. Amerman, DeKrey, Nelson introduced:

**SB 2198:** A BILL for an Act to amend and reenact sections 37-07.1-02, 37-07.1-03, 37-07.1-05, 37-07.1-06.2, 37-07.2-01, and 37-07.2-03 of the North Dakota Century Code, relating to tuition waivers and grants for national guard members.

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

Sens. Brown, G. Lee and Reps. Devlin, Klemin, Kretschmar introduced:

**SB 2199:** A BILL for an Act to amend and reenact section 28-01-46 of the North Dakota Century Code, relating to expert opinion required in certain civil cases.

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

#### **FIRST READING OF SENATE CONCURRENT RESOLUTIONS**

Sen. Wardner introduced:

**SCR 4009:** A concurrent resolution directing the Legislative Council to study school district funding sources to determine if a method can be found to provide an incentive to reduce school district property tax levies.

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

Sen. Wardner introduced:

**SCR 4010:** A concurrent resolution directing the Legislative Council to study alternatives to the current method of expressing property tax levies in mills per dollar of taxable valuation.

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

Sen. Wardner introduced:

**SCR 4011:** A concurrent resolution directing the Legislative Council to study assessment and taxation of mobile homes and similar housing alternatives with an emphasis on making assessment and taxation of those housing alternatives equitable in comparison with assessment and taxation of traditional residential housing.

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

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

**William R. Horton, Secretary**