

**JOURNAL OF THE SENATE**

**Fifty-eighth Legislative Assembly**

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**Bismarck, January 21, 2003**

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

The prayer was offered by Senator Thane.

The roll was called and all members were present.

A quorum was declared by the President.

**CONSIDERATION OF AMENDMENTS**

**SB 2153: SEN. ERBELE (Human Services Committee) MOVED** that the amendments on SJ page 97 be adopted and then be **REFERRED** to the **Appropriations Committee** with **DO PASS**, which motion prevailed.

**SECOND READING OF SENATE BILL**

**SB 2058:** A BILL for an Act to create and enact sections 54-52-02.11 and 54-52-02.12, a new subsection to section 54-52-17.4, two new sections to chapter 54-52, three new subsections to section 54-52-26, section 54-52.2-03.3, and two new sections to chapter 54-52.6 of the North Dakota Century Code, relating to participation, service credit purchases, confidentiality under the public employees retirement system, contributions to a defined contribution plan account, qualified domestic relations order applicability to the deferred compensation program, and compliance with the Internal Revenue Code; to amend and reenact section 28-22-19, subsections 3, 7, 10, and 14 of section 54-52-01, sections 54-52-02 and 54-52-02.5, subsection 3 of section 54-52-05, sections 54-52-17, 54-52-17.2, 54-52-17.4, and 54-52-27, subsection 1 of section 54-52.1-03.3, section 54-52.2-06, and subsection 4 of section 54-52.6-13 of the North Dakota Century Code, relating to exemptions from legal process, definitions, membership, contributions, benefits, service credit, conversion of sick leave, and retiree health benefits under the public employees retirement system and account refunds for members of the defined contribution retirement system; and to repeal section 54-52-17.8 of the North Dakota Century Code, relating to benefit limitations under the public employees retirement system.

**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; Christenson; Christmann; Cook; Dever; Erbele; Espeguard; Every; Fairfield; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Mutch; Nelson; Nething; Nichols; O'Connell; Polovitz; Robinson; Schobinger; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

Engrossed SB 2058 passed and the title was agreed to.

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**SECOND READING OF SENATE BILL**

**SB 2059:** A BILL for an Act to create and enact two new sections to chapter 39-03.1 of the North Dakota Century Code, relating to Internal Revenue Code compliance and employer service purchases under the highway patrolmen's retirement system; to amend and reenact section 39-03.1-08.2, subsection 2 of section 39-03.1-09, and sections 39-03.1-14.1 and 39-03.1-28 of the North Dakota Century Code, relating to the purchase of additional service credit, employer payment of employee contributions multiple plan membership, and confidentiality requirements under the highway patrolmen's retirement system; and to repeal section 39-03.1-11.1 of the North Dakota Century Code, relating to benefit limitations under the highway patrolmen's retirement system.

**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; Christenson; Christmann; Cook; Dever; Erbele; Espegard; Every; Fairfield; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Mutch; Nelson; Nething; Nichols; O'Connell; Polovitz; Robinson; Schobinger; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

Engrossed SB 2059 passed and the title was agreed to.

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**MOTION**

**SEN. CHRISTMANN MOVED** that a committee of two be appointed to escort Ronald F. Conley, National Commander of the American Legion, and Elsie Bailey, National President of the American Legion Auxiliary, to the rostrum, which motion prevailed. The President appointed as such committee Sens. Syverson and Bercier.

Commander Conley and President Bailey were escorted to the rostrum.

**ADDRESS OF COMMANDER RONALD F. CONLEY**

Lt. Governor Dalrymple, Senate Pro Tem Traynor, Majority Leader Stenehjem, Minority Leader O'Connell, Members of the North Dakota Senate and distinguished guests:

As I begin, let me take a moment to introduce members of the American Legion family who are with me today: The Commander of the North Dakota American Legion, Sebastian Roll; The American Legion Service Officer of the North Dakota American Legion, Jim Demero; and the National Executive Committeeman for the American Legion of North Dakota, Curtis Twete.

It is an honor and privilege to stand before you today. On behalf of the 23,000 Legionnaires here in North Dakota and the 2.8 million Legionnaires around the world, I want to thank each of you. You can be proud of your work in supporting veterans throughout the state. I also commend you for fully supporting a terrific group of highly trained professionals I personally was very happy to see in action - the North Dakota Air National Guard Happy Hooligans!

I was in Washington, D.C. on September 11 of 2001, along with Jim Coats and other Legionnaires of North Dakota, and I can tell you, watching them flying combat air cover immediately after terrorists slammed into the Pentagon was not only comforting but made me proud as an American. By coincidence they just happened to be deployed in the area on that day and scrambled to be the first unit in the air over our nation's Capitol. So, I'm sure you will fun you Army and Air National Guard as a major priority. My hat is off to the Happy Hooligans.

Since I became national commander of the nation's largest veterans' organization last August, I have been traveling across the nation visiting VA hospitals to personally assess the care given to our country's veterans. I am here to tell you that there are dedicated men and women in the VA health care system who are extremely dedicated and caring individuals. But, the problem is the system is under funded. That translates in to fewer staff, longer waits for primary health care and tragically, lost infrastructure to provide vital services conveniently for disabled veterans.

This is not a major concern for your budget, but a concern for you because the federal government activates members of your National Guard. These guardsmen and women will become veterans, who are and should be entitled to VA health care. It is the responsibility of the federal government to care for them. That's why the American Legion is conducting a national campaign - "I Am Not a Number" - to place actual faces of veterans to the statistics of long waits. Over 300,000 veterans are waiting well over six months or a year to see a primary care doctor. For some of our aging World War II veterans, those kinds of waiting times may be too late. I will be taking their stories and pictures to Washington in March to present them to our federal law makers. I am going to ask them to pass legislation that will make funding of the VA health care system mandatory, rather than discretionary. I hope you agree. The men and women who served our nation when called deserve no less.

Here in North Dakota our veterans are blessed. Ray Harkema, your State Director of Veterans' Affairs, is one of the very best. He can always be counted on to ensure veterans statewide get the services they need. I urge you to continue to ensure the North Dakota Department of

Veterans' Affairs will have the funding it needs to be there for those who have served in our armed forces. I also want to commend you on your support of your State Veterans' Home - one recognized for quality care, even as other concerns are being addressed.

As a nation at war, a war that might intensify soon in Iraq, we continue to make more veterans. The sacrifices made by the men and women in today's armed forces are clearly above and beyond the call of duty. In addition to long deployments and family separations they face combat with individuals who not only hate them - they hate America. Young men and women from North Dakota and across the nation - our sons, daughters, neighbors, and grandchildren - as I speak, are defending our interests in the caves and deserts of hostile lands. Some may never return. All of them are truly America's heroes.

I thank you for supporting the veterans of North Dakota; of wars past and present. I hope that you honor their service by ensuring veterans' preference in job bills. Additionally, let me suggest another areas in which you can make a real difference in the lives of North Dakotans called to active duty from the Guard and Reserve. It's no secret that more call-ups are coming, some as recent as yesterday. Anything you can do in the area of tax relief for these dedicated Americans and employers who subsidized their pay would be of tremendous help to them. I realize that you have a bill before you for tax relief for retired veterans and those being deployed, SB 2172. Many take a serious cut in pay when they leave their civilian jobs to fight in the war on terrorism. Believe me, your effort in this area would pay big dividends.

I thank you also for your support of North Dakota's veterans' cemeteries, a last tribute to their commitment to service.

In an uncertain world, there is one thing certain about the people of North Dakota and their elected officials. They are proud Americans who understand values. North Dakota was one of the first states to pass a "Memorializing Resolution" supporting an amendment to the U.S. Constitution to restore to Congress the right to protect the U.S. flag from physical acts of desecration. I am aware that you are ready to act once again when the U.S. House and U.S. Senate pass it in the 108th Congress and send it here for ratification. It is my belief that, once the proposal finally gets to the states, it will become the quickest amendment ever ratified. And rightfully so.

And finally, if any of you are war time veterans, I just happen to have American Legion application forms in my pocket. We'd love to have you join us.

I thank you for all that you do for North Dakota, its veterans and their families. May God bless you as you continue to work for the people in these trying times.

#### **MOTION**

**SEN. CHRISTMANN MOVED** that the address of Commander Conley be printed in the Journal, which motion prevailed.

#### **SECOND READING OF SENATE BILL**

**SB 2061:** A BILL for an Act to adopt the Uniform Arbitration Act; and to repeal chapter 32-29.2 of the North Dakota Century Code, relating to the Uniform Arbitration 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 45 YEAS, 0 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

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

**ABSENT AND NOT VOTING:** Heitkamp; Krauter

Engrossed SB 2061 passed and the title was agreed to.

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#### **SECOND READING OF SENATE BILL**

**SB 2197:** A BILL for an Act to create and enact a new section to chapter 15.1-09 of the North Dakota Century Code, relating to the payment of retention incentives by school boards; 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 31 YEAS, 16 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bowman; Brown; Christmann; Cook; Dever; Erbele; Fischer; Flakoll; Freborg; Grindberg; Holmberg; Kilzer; Klein; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lyson; Mutch; Nething; Schobinger; Stenehjem; Syverson; Tallackson; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

**NAYS:** Bercier; Christenson; Espegard; Every; Fairfield; Heitkamp; Krauter; Lindaas; Mathern; Nelson; Nichols; O'Connell; Polovitz; Robinson; Seymour; Taylor

SB 2197 passed, the title was agreed to, but the emergency clause lost for lack of two-thirds majority.

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**SECOND READING OF SENATE BILL**

**SB 2200:** A BILL for an Act to amend and reenact section 15-62.2-03.3 of the North Dakota Century Code, relating to the student financial assistance and scholars programs.

**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; Christenson; Christmann; Cook; Dever; Erbele; Espegard; Every; Fairfield; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Mutch; Nelson; Nething; Nichols; O'Connell; Polovitz; Robinson; Schobinger; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

SB 2200 passed and the title was agreed to.

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**ANNOUNCEMENT**

**PRESIDENT DALRYMPLE ANNOUNCED** that the reports received by the Senate under statutory requirements that reports be filed with the Legislative Assembly are filed with the Legislative Council.

**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 2062, SB 2082, SB 2124.

**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 1083, HB 1165.

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

**MR. PRESIDENT:** The House has passed, the emergency clause carried, and your favorable consideration is requested on: HB 1124.

**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 22, 2003, which motion prevailed.

**REPORT OF STANDING COMMITTEE**

**SB 2035: Judiciary Committee (Sen. Traynor, Chairman)** recommends **DO NOT PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2035 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2043: Political Subdivisions Committee (Sen. Cook, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2043 was placed on the Sixth order on the calendar.

Page 1, line 4, replace "The" with "Except as provided in this section, the"

Page 1, line 6, after the period insert "In counties in which a county office performs those activities, a county may transfer responsibility for the activities to another county office."

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**SB 2045: Judiciary Committee (Sen. Traynor, Chairman)** recommends **DO PASS** (4 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2045 was placed on the Eleventh order on the calendar.

#### REPORT OF STANDING COMMITTEE

**SB 2064: 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 2064 was rereferred to the **Appropriations Committee**.

#### REPORT OF STANDING COMMITTEE

**SB 2084: Industry, Business and Labor Committee (Sen. Mutch, Chairman)** recommends **DO PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2084 was placed on the Eleventh order on the calendar.

#### REPORT OF STANDING COMMITTEE

**SB 2116: Industry, Business and Labor Committee (Sen. Mutch, Chairman)** recommends **DO NOT PASS** (6 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). SB 2116 was placed on the Eleventh order on the calendar.

#### REPORT OF STANDING COMMITTEE

**SB 2117: Industry, Business and Labor Committee (Sen. Mutch, Chairman)** recommends **DO NOT PASS** (5 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2117 was placed on the Eleventh order on the calendar.

#### REPORT OF STANDING COMMITTEE

**SB 2128: Finance and Taxation Committee (Sen. Urlacher, Chairman)** recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2128 was placed on the Eleventh order on the calendar.

#### REPORT OF STANDING COMMITTEE

**SB 2157: 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 2157 was placed on the Sixth order on the calendar.

Page 3, line 3, replace "sate" with "state"

Page 3, line 18, after the comma insert "the name of the organization,"

Page 3, line 21, after the comma insert "the name of the organization,"

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**SB 2183: Industry, Business and Labor Committee (Sen. Mutch, Chairman)** recommends **DO PASS** and **BE PLACED ON THE CONSENT CALENDAR** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2183 was placed on the Tenth order on the calendar.

#### REPORT OF STANDING COMMITTEE

**SB 2205: Industry, Business and Labor Committee (Sen. Mutch, Chairman)** recommends **DO PASS** and **BE PLACED ON THE CONSENT CALENDAR** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2205 was placed on the Tenth order on the calendar.

#### FIRST READING OF SENATE BILLS

Sen. Krebsbach and Rep. Keiser introduced:

**SB 2302:** A BILL for an Act to amend and reenact subsection 4 of section 13-01-14 of the North Dakota Century Code, relating to late payment charges on medical or hospital bills.

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

Sens. Urlacher, Wardner and Rep. F. Klein introduced:

**SB 2303:** A BILL for an Act to amend and reenact subsection 15 of section 57-02-08 of the North Dakota Century Code, relating to income limitations under the farm residence and farm buildings property tax exemptions; and to provide an effective date.

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

Sen. Bowman introduced:

**SB 2304:** A BILL for an Act to create and enact a new chapter to title 4 of the North Dakota Century Code, relating to damages for cross-pollination with transgenic wheat; and to provide for a legislative council study.

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

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

**WILLIAM R. HORTON, Secretary**