

**JOURNAL OF THE SENATE**

**Fifty-eighth Legislative Assembly**

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**Bismarck, January 31, 2003**

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

The prayer was offered by Reverend Chuck Loftis, Prairie Family Church, Bismarck.

The roll was called and all members were present except Senator Tallackson.

A quorum was declared by the President.

**MOTION**

**SEN. CHRISTMANN MOVED** that the rules be suspended and after action taken on the Sixth order, all bills on that order be placed on the Eleventh order, as amended, for immediate second reading and final passage, which motion prevailed.

**CONSIDERATION OF AMENDMENTS**

**SB 2303: SEN. URLACHER (Finance and Taxation Committee) MOVED** that the amendments on SJ pages 190-191 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

**SECOND READING OF SENATE BILL**

**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.

**ROLL CALL**

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 39 YEAS, 7 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

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

**NAYS:** Cook; Espegard; Grindberg; Heitkamp; Nelson; Polovitz; Syverson

**ABSENT AND NOT VOTING:** Tallackson

Engrossed SB 2303 passed and the title was agreed to.

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**CONSIDERATION OF AMENDMENTS**

**SB 2115: SEN. TRAYNOR (Natural Resources Committee) MOVED** that the amendments on SJ page 190 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

**SECOND READING OF SENATE BILL**

**SB 2115:** A BILL for an Act to amend and reenact subsection 7 of section 49-02-02 of the North Dakota Century Code, relating to market monitoring information received from the market monitor of the midwest independent system operator, incorporated.

**ROLL CALL**

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 46 YEAS, 0 NAYS, 0 EXCUSED, 1 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; Taylor; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

**ABSENT AND NOT VOTING:** Tallackson

Engrossed SB 2115 passed and the title was agreed to.

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**SECOND READING OF SENATE BILL**

**SB 2253:** A BILL for an Act to amend and reenact subsection 4 of section 43-17-07.1 of the North Dakota Century Code, relating to the powers of the board of medical examiners.

**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, 0 NAYS, 0 EXCUSED, 1 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; Taylor; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

**ABSENT AND NOT VOTING:** Tallackson

SB 2253 passed and the title was agreed to.

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**SECOND READING OF SENATE BILL**

**SB 2301:** A BILL for an Act to amend and reenact section 39-10-43 of the North Dakota Century Code, relating to the type of sign that may be placed at an out-of-service railroad grade crossing.

**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, 0 NAYS, 0 EXCUSED, 1 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; Taylor; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

**ABSENT AND NOT VOTING:** Tallackson

SB 2301 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 2042, SB 2103, SB 2128, SB 2148, SB 2171, SB 2173, SB 2185, SB 2210, SB 2217, SB 2235.

**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 2211.

**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 1063, HB 1090, HB 1101, HB 1135, HB 1168, HB 1178, HB 1184, HB 1185, HB 1210, HB 1212, HB 1230, HB 1236, HB 1297.

**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 1115, HB 1149, HB 1163, HB 1269.

**MOTION**

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

**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., Monday, February 3, 2003, which motion prevailed.

**REPORT OF STANDING COMMITTEE**

**SB 2055: Government and Veterans Affairs Committee (Sen. Krebsbach, Chairman)** recommends **DO NOT PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2055 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2130: 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 2130 was placed on the Sixth order on the calendar.

Page 2, remove lines 3 and 4

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**SB 2134: Government and Veterans Affairs Committee (Sen. Krebsbach, Chairman)** recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2134 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2168: Political Subdivisions Committee (Sen. Cook, Chairman)** recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2168 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2180: Political Subdivisions Committee (Sen. Cook, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). SB 2180 was placed on the Sixth order on the calendar.

Page 1, line 14, after "the" insert "same", overstrike "not to exceed", and remove "one"

Page 1, line 15, remove "hundred", overstrike "dollars", and after "day" insert "as members of the legislative council as provided in section 54-35-10"

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**SB 2196: Agriculture Committee (Sen. Flakoll, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (4 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2196 was placed on the Sixth order on the calendar.

Page 2, line 23, replace "advisory council" with "industry"

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**SB 2202: Political Subdivisions Committee (Sen. Cook, Chairman)** recommends **DO NOT PASS** (5 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). SB 2202 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2203: Transportation Committee (Sen. Trenbeath, Chairman)** recommends **DO NOT PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2203 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2212: Judiciary Committee (Sen. Traynor, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2212 was placed on the Sixth order on the calendar.

Page 1, line 1, after "reenact" insert "section 12.1-20-08,"

Page 1, line 3, replace "crime" with "crimes" and after the first "of" insert "fornication and"

Page 1, line 4, remove the third "and" and after "penalty" insert "; and to declare an emergency"

Page 1, after line 5, insert:

**"SECTION 1. AMENDMENT.** Section 12.1-20-08 of the North Dakota Century Code is amended and reenacted as follows:

**12.1-20-08. Fornication.** ~~A person~~ An individual is guilty of a class A misdemeanor if ~~hethe~~ individual engages in a sexual act in a public place. A minor engaging in a sexual act is guilty of a class B misdemeanor, unless that sexual act was committed against the minor in violation of sections 12.1-20-01 through 12.1-20-07."

Page 2, line 8, replace the second "the" with "a controlled substance, chemical substance, or drug paraphernalia as prohibited by section 19-03.1-22.2."

Page 2, remove lines 9 and 10

Page 2, line 20, overstrike "**and x-rays**" and insert immediately thereafter "- X-rays - Medical tests"

Page 2, line 22, overstrike the second "a"

Page 2, line 23, overstrike "radiological examination" and replace "or toxicology or laboratory testing" with "imaging studies, laboratory tests, coloscopies, and other medical tests"

Page 2, line 24, after "photographs" insert "and other visual images"

Page 2, line 26, remove ", toxicology or laboratory"

Page 2, line 27, remove "reports," and overstrike "x-rays taken" and insert immediately thereafter "visual images"

Page 2, line 29, after the period insert "Imaging studies or copies of the studies and copies of results of other tests conducted under this section must be provided to the department or the department's designee upon request."

**SECTION 6. EMERGENCY.** This Act is declared to be an emergency measure."

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**SB 2219: Transportation Committee (Sen. Trenbeath, Chairman)** recommends **DO NOT PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2219 was placed on the Eleventh order on the calendar.

#### REPORT OF STANDING COMMITTEE

**SB 2229: Political Subdivisions Committee (Sen. Cook, Chairman)** recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2229 was placed on the Eleventh order on the calendar.

#### REPORT OF STANDING COMMITTEE

**SB 2234: Transportation Committee (Sen. Trenbeath, Chairman)** recommends **DO NOT PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2234 was placed on the Eleventh order on the calendar.

#### REPORT OF STANDING COMMITTEE

**SB 2250: Transportation Committee (Sen. Trenbeath, Chairman)** recommends **DO NOT PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2250 was placed on the Eleventh order on the calendar.

#### REPORT OF STANDING COMMITTEE

**SB 2254: Agriculture Committee (Sen. Flakoll, Chairman)** recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2254 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2270: Political Subdivisions Committee (Sen. Cook, Chairman)** recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2270 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2294: Government and Veterans Affairs Committee (Sen. Krebsbach, Chairman)** recommends **DO NOT PASS** (4 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2294 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SCR 4005: Agriculture Committee (Sen. Flakoll, Chairman)** recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SCR 4005 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SCR 4009: Agriculture Committee (Sen. Flakoll, Chairman)** recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SCR 4009 was placed on the Eleventh order on the calendar.

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

**WILLIAM R. HORTON, Secretary**

