

## JOURNAL OF THE SENATE

## Fifty-fifth Legislative Assembly

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Bismarck, February 7, 1997

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

The prayer was offered by Rev. Daniel Maloney, Annunciation Priory, Bismarck.

The roll was called and all members were present except Senators Bowman, Krebsbach, and Tomac.

A quorum was declared by the President.

## CORRECTION AND REVISION OF THE JOURNAL

**MADAM PRESIDENT:** Your **Committee on Correction and Revision of the Journal (Sen. Sand, Chairman)** has carefully examined the Journal of the Twenty-fourth Day and recommends that it be corrected as follows and when so corrected, recommends that it be approved:

Page 267, line 45, replace "paparicolaou" with "papanicolaou"

**SEN. SAND MOVED** that the report be adopted, which motion prevailed.

## MESSAGE TO THE SENATE FROM THE HOUSE (ROY GILBREATH, CHIEF CLERK)

**MADAM PRESIDENT:** The House has passed and your favorable consideration is requested on: HB 1028, HB 1103, HB 1134, HB 1160, HB 1482.

## MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM C. PARKER, SECRETARY)

**MR. SPEAKER:** The Senate has passed and your favorable consideration is requested on: SB 2017, SB 2131, SB 2171, SB 2279, SB 2298, SB 2334.

## MOTION

**SEN. ROBINSON MOVED** that SB 2358 be returned to the Senate floor from the **Appropriations Committee** for the purpose of withdrawal, which motion prevailed.

## REQUEST

**SEN. ROBINSON REQUESTED** the unanimous consent of the Senate to withdraw SB 2358. There being no objection, it was so ordered by the President.

## CONSIDERATION OF AMENDMENTS

**SB 2015: SEN. LIPS (Appropriations Committee) MOVED** that the amendments on SJ page 257 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

## CONSIDERATION OF AMENDMENTS

**SB 2016: SEN. WOGSLAND (Education Committee) MOVED** that the amendments on SJ pages 257-259 be adopted and then be **REREFERRED** to the **Appropriations Committee** with **DO PASS**, which motion prevailed. Pursuant to Sen. Wogsland's motion, Engrossed SB 2016 was rereferred.

## CONSIDERATION OF AMENDMENTS

**SB 2045: SEN. WATNE (Judiciary Committee) MOVED** that the amendments on SJ pages 259-264 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

## MOTION

**SEN. GOETZ MOVED** that SB 2045 be placed on the eleventh order, as amended, for immediate second reading and final passage, which motion prevailed.

## SECOND READING OF SENATE BILL

**SB 2045:** A BILL for an Act to create and enact chapter 12-55.1 of the North Dakota Century Code, relating to the pardon advisory board and to pardons, conditional pardons, reprieves, and commutations; to amend and reenact subsection 5 of section 12-60-16.2, subsections 15 and 17 of section 12.1-34-02, subsection 4 of section 12.1-34-03, subsection 5 of section 27-20-52, subsection 1 of section 28-32-01, and

subsection 1 of section 54-07-01.2 of the North Dakota Century Code, relating to the pardon advisory board and to membership of boards; and to repeal chapter 12-55 of the North Dakota Century Code, relating to pardons, reprieves, and commutations.

#### 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, 3 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Berg; Christmann; Cook; DeMers; Fischer; Freborg; Goetz; Grindberg; Heitkamp; Holmberg; Kelsh; Kinnoin; Klein; Krauter; Kringstad; LaFountain; Lee; Lindaas; Lips; Mathern; Mutch; Mutzenberger; Naaden; Nalewaja; Nelson, C.; Nelson, G.; Nething; O'Connell; Redlin; Robinson; Sand; Schobinger; Solberg; St. Aubyn; Stenehjem, B.; Stenehjem, W.; Tallackson; Thane; Thompson; Traynor; Urlacher; Wanzek; Watne; Wogsland; Yockim

**ABSENT AND NOT VOTING:** Bowman; Krebsbach; Tomac

Engrossed SB 2045 passed and the title was agreed to.

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#### CONSIDERATION OF AMENDMENTS

**SB 2187: SEN. W. STENEHJEM (Judiciary Committee) MOVED** that the amendments on SJ pages 264-265 be adopted and then be **REREFERRED** to the **Appropriations Committee** with **DO PASS**, which motion prevailed. Pursuant to Sen. W. Stenehjem's motion, Engrossed SB 2187 was rereferred.

#### CONSIDERATION OF AMENDMENTS

**SB 2204: SEN. HEITKAMP (Finance and Taxation Committee) MOVED** that the amendments on SJ page 265 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

#### CONSIDERATION OF AMENDMENTS

**SB 2207: SEN. LINDAAS (Industry, Business and Labor Committee) MOVED** that the amendments on SJ page 267 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

#### CONSIDERATION OF AMENDMENTS

**SB 2287: SEN. MUTCH (Industry, Business and Labor Committee) MOVED** that the amendments on SJ pages 265-266 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

#### CONSIDERATION OF AMENDMENTS

**SB 2336: SEN. WANZEK (Education Committee) MOVED** that the amendments on SJ page 266 be adopted and then be **REREFERRED** to the **Appropriations Committee** with **DO PASS**, which motion prevailed. Pursuant to Sen. Wanzek's motion, Engrossed SB 2336 was rereferred.

#### CONSIDERATION OF AMENDMENTS

**SB 2343: SEN. SAND (Industry, Business and Labor Committee) MOVED** that the amendments on SJ page 267 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

#### CONSIDERATION OF AMENDMENTS

**SB 2373: SEN. THOMPSON (Industry, Business and Labor Committee) MOVED** that the amendments on SJ page 266 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

#### CONSIDERATION OF AMENDMENTS

**SB 2398: SEN. CHRISTMANN (Finance and Taxation Committee) MOVED** that the amendments on SJ pages 266-267 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

#### SECOND READING OF SENATE BILL

**SB 2009:** A BILL for an Act to provide an appropriation for defraying the expenses of the state fair association.

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

**YEAS:** Andrist; Berg; Christmann; Cook; DeMers; Fischer; Freborg; Goetz; Grindberg; Heitkamp; Holmberg; Kelsh; Kinnoin; Klein; Krauter; Kringstad; LaFountain; Lee; Lindaas; Lips; Mathern; Mutch; Mutzenberger; Naaden; Nalewaja; Nelson, C.; Nelson, G.; Nething; O'Connell; Redlin; Robinson; Sand; Schobinger; Solberg; St. Aubyn; Stenehjem, B.; Stenehjem, W.; Tallackson; Thane; Thompson; Traynor; Urlacher; Wanzek; Watne; Wogslund; Yockim

**ABSENT AND NOT VOTING:** Bowman; Krebsbach; Tomac

Engrossed SB 2009 passed and the title was agreed to.

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**SECOND READING OF SENATE BILL**

**SB 2088:** A BILL for an Act to amend and reenact subsection 1 of section 54-44-11, sections 54-44.4-02, and 54-44.4-03 of the North Dakota Century Code, relating to providing a continuing appropriation from the state purchasing operating fund, delegation of purchasing authority by the director of the office of management and budget, and cooperation with political subdivisions for purchasing; and to provide a continuing appropriation.

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

**YEAS:** Andrist; Berg; Christmann; Cook; DeMers; Fischer; Freborg; Goetz; Grindberg; Heitkamp; Holmberg; Kelsh; Kinnoin; Klein; Krauter; Kringstad; LaFountain; Lee; Lindaas; Lips; Mathern; Mutch; Mutzenberger; Naaden; Nalewaja; Nelson, C.; Nelson, G.; Nething; O'Connell; Redlin; Robinson; Sand; Schobinger; Solberg; St. Aubyn; Stenehjem, B.; Stenehjem, W.; Tallackson; Thane; Thompson; Traynor; Urlacher; Wanzek; Watne; Wogslund; Yockim

**ABSENT AND NOT VOTING:** Bowman; Krebsbach; Tomac

Engrossed SB 2088 passed and the title was agreed to.

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**SECOND READING OF SENATE BILL**

**SB 2108:** A BILL for an Act to amend and reenact sections 12-47-01, 12-47-02, 12-47-18.1, 12-47-34, 12-47-36, 12-48-15, and subsection 2 of section 29-27-07 of the North Dakota Century Code, relating to penitentiary facilities and to inmate transfers, escapes, records, and moneys; and to repeal section 32-22-36 of the North Dakota Century Code, relating to writs for transfer of prisoners.

**MOTION**

**SEN. YOCKIM MOVED** that Reengrossed SB 2108 be amended as follows:

Page 1, line 14, after "may" insert "not"

Page 1, line 15, replace "within the limits of" with "without specific" and after "legislative" insert "authorization and"

Renumber accordingly

**REQUEST**

**SEN. HEITKAMP REQUESTED** a recorded roll call vote on the motion to adopt the proposed amendments to Reengrossed SB 2108, which request was granted.

**ROLL CALL**

The question being on the motion to adopt the proposed amendments to Reengrossed SB 2108, the roll was called and there were 16 YEAS, 30 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

**YEAS:** Berg; DeMers; Heitkamp; Kelsh; Krauter; LaFountain; Lindaas; Mathern; Mutzenberger; Nelson, C.; O'Connell; Redlin; Robinson; Thompson; Wogsland; Yockim

**NAYS:** Andrist; Christmann; Cook; Fischer; Freborg; Goetz; Grindberg; Holmberg; Kinnoin; Klein; Kringstad; Lee; Lips; Mutch; Naaden; Nalewaja; Nelson, G.; Nething; Sand; Schobinger; Solberg; St. Aubyn; Stenehjem, B.; Stenehjem, W.; Tallackson; Thane; Traynor; Urlacher; Wanzek; Watne

**ABSENT AND NOT VOTING:** Bowman; Krebsbach; Tomac

The proposed amendments to Reengrossed SB 2108 failed.

#### 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 38 YEAS, 8 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Christmann; Cook; Fischer; Freborg; Goetz; Grindberg; Heitkamp; Holmberg; Kelsh; Kinnoin; Klein; Kringstad; Lee; Lindaas; Lips; Mutch; Mutzenberger; Naaden; Nalewaja; Nelson, C.; Nelson, G.; Nething; Robinson; Sand; Schobinger; Solberg; St. Aubyn; Stenehjem, B.; Stenehjem, W.; Tallackson; Thane; Thompson; Traynor; Urlacher; Wanzek; Watne; Wogsland

**NAYS:** Berg; DeMers; Krauter; LaFountain; Mathern; O'Connell; Redlin; Yockim

**ABSENT AND NOT VOTING:** Bowman; Krebsbach; Tomac

Reengrossed SB 2108 passed and the title was agreed to.

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#### SECOND READING OF SENATE BILL

**SB 2180:** A BILL for an Act to create and enact a new section to chapter 39-16 of the North Dakota Century Code, relating to the sale of driver's license information; 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 NOT PASS, the roll was called and there were 2 YEAS, 43 NAYS, 0 EXCUSED, 4 ABSENT AND NOT VOTING.

**YEAS:** Grindberg; Thane

**NAYS:** Andrist; Berg; Christmann; Cook; DeMers; Fischer; Freborg; Goetz; Heitkamp; Holmberg; Kelsh; Kinnoin; Klein; Krauter; Kringstad; LaFountain; Lee; Lindaas; Lips; Mathern; Mutch; Mutzenberger; Naaden; Nalewaja; Nelson, C.; Nelson, G.; Nething; O'Connell; Redlin; Robinson; Sand; Schobinger; Solberg; St. Aubyn; Stenehjem, B.; Stenehjem, W.; Thompson; Traynor; Urlacher; Wanzek; Watne; Wogsland; Yockim

**ABSENT AND NOT VOTING:** Bowman; Krebsbach; Tallackson; Tomac

SB 2180 lost.

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#### SECOND READING OF SENATE BILL

**SB 2357:** A BILL for an Act to create and enact a new section to chapter 14-09 of the North Dakota Century Code, relating to the modification of visitation and child support.

#### ROLL CALL

The question being on the final passage of the bill, which has been read, and has committee recommendation of DO NOT PASS, the roll was called and there were 24 YEAS, 21 NAYS, 0 EXCUSED, 4 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Cook; DeMers; Fischer; Heitkamp; Kelsh; Kinnoin; Klein; Krauter; LaFountain; Lee; Lindaas; Mathern; Mutzenberger; Nelson, C.; O'Connell; Robinson; Schobinger; Stenehjem, B.; Thane; Thompson; Urlacher; Wogsland; Yockim

**NAYS:** Berg; Christmann; Freborg; Goetz; Grindberg; Holmberg; Kringstad; Lips; Mutch; Naaden; Nalewaja; Nelson, G.; Nething; Redlin; Sand; Solberg; St. Aubyn; Stenehjem, W.; Traynor; Wanzek; Watne

**ABSENT AND NOT VOTING:** Bowman; Krebsbach; Tallackson; Tomac

SB 2357 lost for lack of a Constitutional majority.

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#### SECOND READING OF SENATE BILL

**SB 2377:** A BILL for an Act to protect the right of a parent to direct the upbringing of a child.

#### ROLL CALL

The question being on the final passage of the bill, which has been read, and has committee recommendation of DO NOT PASS, the roll was called and there were 17 YEAS, 29 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Christmann; Cook; Fischer; Freborg; Goetz; Kinnoin; Klein; Mutch; Naaden; Nalewaja; Nelson, G.; Schobinger; Solberg; Stenehjem, B.; Urlacher; Wanzek

**NAYS:** Berg; DeMers; Grindberg; Heitkamp; Holmberg; Kelsh; Krauter; Kringstad; LaFountain; Lee; Lindaas; Lips; Mathern; Mutzenberger; Nelson, C.; Nething; O'Connell; Redlin; Robinson; Sand; St. Aubyn; Stenehjem, W.; Tallackson; Thane; Thompson; Traynor; Watne; Wogsland; Yockim

**ABSENT AND NOT VOTING:** Bowman; Krebsbach; Tomac

SB 2377 lost.

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#### SECOND READING OF SENATE BILL

**SB 2229:** A BILL for an Act to create and enact a new section to chapter 32-12.2 of the North Dakota Century Code, relating to claims against the state by political subdivisions.

#### ROLL CALL

The question being on the final passage of the bill, which has been read, and has committee recommendation of DO NOT PASS, the roll was called and there were 14 YEAS, 32 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Christmann; Cook; Freborg; Grindberg; Kinnoin; Klein; Mutch; Naaden; Schobinger; Solberg; Stenehjem, B.; Wanzek; Watne

**NAYS:** Berg; DeMers; Fischer; Goetz; Heitkamp; Holmberg; Kelsh; Krauter; Kringstad; LaFountain; Lee; Lindaas; Lips; Mathern; Mutzenberger; Nalewaja; Nelson, C.; Nelson, G.; Nething; O'Connell; Redlin; Robinson; Sand; St. Aubyn; Stenehjem, W.; Tallackson; Thane; Thompson; Traynor; Urlacher; Wogsland; Yockim

**ABSENT AND NOT VOTING:** Bowman; Krebsbach; Tomac

SB 2229 lost.

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#### SECOND READING OF SENATE BILL

**SB 2236:** A BILL for an Act to amend and reenact section 26.1-06.1-29 of the North Dakota Century Code, relating to insurance company setoff in liquidation or rehabilitation; 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 43 YEAS, 0 NAYS, 0 EXCUSED, 6 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Berg; Christmann; Cook; Fischer; Freborg; Goetz; Grindberg; Holmberg; Kelsh; Kinnoin; Klein; Krauter; Kringstad; Lee; Lindaas; Lips; Mathern; Mutch; Mutzenberger; Naaden; Nalewaja; Nelson, C.; Nelson, G.; Nething; O'Connell; Redlin; Robinson; Sand; Schobinger; Solberg; St. Aubyn; Stenehjem, B.; Stenehjem, W.; Tallackson; Thane; Thompson; Traynor; Urlacher; Wanzek; Watne; Wogsland; Yockim

**ABSENT AND NOT VOTING:** Bowman; DeMers; Heitkamp; Krebsbach; LaFountain; Tomac

SB 2236 passed, the title was agreed to, and the emergency clause was declared carried.

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### SECOND READING OF SENATE BILL

**SB 2241:** A BILL for an Act to create and enact a new section to chapter 20.1-02 of the North Dakota Century Code, relating to the introduction of nonnative fish species; 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 NOT PASS, the roll was called and there were 5 YEAS, 38 NAYS, 0 EXCUSED, 6 ABSENT AND NOT VOTING.

**YEAS:** Kelsh; Krauter; Mathern; Nelson, G.; Thompson

**NAYS:** Andrist; Berg; Christmann; Cook; Fischer; Freborg; Goetz; Grindberg; Heitkamp; Holmberg; Kinnoin; Klein; Kringstad; LaFountain; Lee; Lips; Mutch; Mutzenberger; Naaden; Nalewaja; Nelson, C.; Nething; O'Connell; Redlin; Robinson; Sand; Schobinger; Solberg; St. Aubyn; Stenehjem, B.; Stenehjem, W.; Tallackson; Thane; Traynor; Urlacher; Wanzek; Watne; Wogsland

**ABSENT AND NOT VOTING:** Bowman; DeMers; Krebsbach; Lindaas; Tomac; Yockim

SB 2241 lost.

### REQUEST

**SEN. LINDAAS REQUESTED** that the record show he had meant to vote NAY on SB 2241 but his button was not functioning, which request was granted.

Therefore, the final vote on SB 2241 was 5 YEAS, 39 NAYS, 0 EXCUSED, AND 5 ABSENT AND NOT VOTING.

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### SECOND READING OF SENATE BILL

**SB 2249:** A BILL for an Act to amend and reenact section 15-40.1-06 of the North Dakota Century Code, relating to a definition of the state average school district general fund mill levy.

### ROLL CALL

The question being on the final passage of the bill, which has been read, and has committee recommendation of DO NOT PASS, the roll was called and there were 7 YEAS, 38 NAYS, 0 EXCUSED, 4 ABSENT AND NOT VOTING.

**YEAS:** Heitkamp; Kelsh; Kinnoin; Krauter; O'Connell; Tallackson; Wogsland

**NAYS:** Andrist; Berg; Christmann; Cook; Fischer; Freborg; Goetz; Grindberg; Holmberg; Klein; Kringstad; LaFountain; Lee; Lindaas; Lips; Mathern; Mutch; Mutzenberger; Naaden; Nalewaja; Nelson, C.; Nelson, G.; Nething; Redlin; Robinson; Sand; Schobinger; Solberg; St. Aubyn; Stenehjem, B.; Stenehjem, W.; Thane; Thompson; Traynor; Urlacher; Wanzek; Watne; Yockim

**ABSENT AND NOT VOTING:** Bowman; DeMers; Krebsbach; Tomac

SB 2249 lost.

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### MOTION

**SEN. GOETZ MOVED** that SB 2309 be moved to the bottom of the Eleventh order, which motion prevailed.

### SECOND READING OF SENATE BILL

**SB 2254:** A BILL for an Act to amend and reenact section 15-40.1-06 of the North Dakota Century Code, relating to the calculation and application of the school district equalization factor.

**ROLL CALL**

The question being on the final passage of the bill, which has been read, and has committee recommendation of DO NOT PASS, the roll was called and there were 12 YEAS, 33 NAYS, 0 EXCUSED, 4 ABSENT AND NOT VOTING.

**YEAS:** Heitkamp; Kelsh; Kinnoin; Krauter; LaFountain; Lindaas; Mathern; Mutzenberger; O'Connell; Tallackson; Thompson; Wogsland

**NAYS:** Andrist; Berg; Christmann; Cook; Fischer; Freborg; Goetz; Grindberg; Holmberg; Klein; Kringstad; Lee; Lips; Mutch; Naaden; Nalewaja; Nelson, C.; Nelson, G.; Nething; Redlin; Robinson; Sand; Schobinger; Solberg; St. Aubyn; Stenehjem, B.; Stenehjem, W.; Thane; Traynor; Urlacher; Wanzek; Watne; Yockim

**ABSENT AND NOT VOTING:** Bowman; DeMers; Krebsbach; Tomac

SB 2254 lost.

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**SECOND READING OF SENATE BILL**

**SB 2354:** A BILL for an Act to create and enact a new subsection to section 57-38-30.3 and chapter 57-38.6 of the North Dakota Century Code, relating to an agricultural processing business investment income tax credit; 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 NOT PASS, the roll was called and there were 20 YEAS, 25 NAYS, 0 EXCUSED, 4 ABSENT AND NOT VOTING.

**YEAS:** Berg; Grindberg; Heitkamp; Kelsh; Kinnoin; Krauter; LaFountain; Lindaas; Mathern; Mutzenberger; Nelson, C.; O'Connell; Redlin; Robinson; Tallackson; Thane; Thompson; Wanzek; Wogsland; Yockim

**NAYS:** Andrist; Christmann; Cook; Fischer; Freborg; Goetz; Holmberg; Klein; Kringstad; Lee; Lips; Mutch; Naaden; Nalewaja; Nelson, G.; Nething; Sand; Schobinger; Solberg; St. Aubyn; Stenehjem, B.; Stenehjem, W.; Traynor; Urlacher; Watne

**ABSENT AND NOT VOTING:** Bowman; DeMers; Krebsbach; Tomac

SB 2354 lost.

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**SECOND READING OF SENATE BILL**

**SB 2370:** A BILL for an Act to create and enact a new section to chapter 11-10 of the North Dakota Century Code, relating to terms of office for county commissioners.

**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, 0 NAYS, 0 EXCUSED, 4 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Berg; Christmann; Cook; Fischer; Freborg; Goetz; Grindberg; Heitkamp; Holmberg; Kelsh; Kinnoin; Klein; Krauter; Kringstad; LaFountain; Lee; Lindaas; Lips; Mathern; Mutch; Mutzenberger; Naaden; Nalewaja; Nelson, C.; Nelson, G.; Nething; O'Connell; Redlin; Robinson; Sand; Schobinger; Solberg; St. Aubyn; Stenehjem, B.; Stenehjem, W.; Tallackson; Thane; Thompson; Traynor; Urlacher; Wanzek; Watne; Wogsland; Yockim

**ABSENT AND NOT VOTING:** Bowman; DeMers; Krebsbach; Tomac

SB 2370 passed and the title was agreed to.

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**SECOND READING OF SENATE CONCURRENT RESOLUTION**

**SCR 4019:** A concurrent resolution directing the Legislative Council to study the adequacy of transportation funding in North Dakota.

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

SCR 4019 was declared adopted on a voice vote, and the title was agreed to.

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#### MOTION

**SEN. GOETZ MOVED** that SCR 4036 be returned to the Senate floor from the **Industry, Business and Labor Committee** and be rereferred to the **Appropriations Committee**, which motion prevailed. Pursuant to Sen. Goetz's motion, SCR 4036 was rereferred.

#### MOTION

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

#### MOTION

**SEN. GOETZ MOVED** that the Senate be on the Fifth and Thirteenth orders of business and at the conclusion of those orders, the Senate stand adjourned until 1:00 p.m., Monday, February 10, 1997, which motion prevailed.

#### REPORT OF STANDING COMMITTEE

**SB 2005: Appropriations Committee (Sen. Nething, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (9 YEAS, 1 NAY, 3 ABSENT AND NOT VOTING). SB 2005 was placed on the Sixth order on the calendar.

Page 1, line 12, replace "145,500" with "200,000"

Page 1, line 13, replace "410,873" with "465,373"

Page 1, line 14, replace "394" with "200,394"

Page 1, line 15, replace "410,479" with "264,979"

Page 1, after line 20, insert:

**"SECTION 3. ESTIMATED INCOME.** The estimated income line item in section 1 of this Act includes the sum of \$200,000, or so much of the sum as may be necessary, from the children's services coordinating committee for the purpose of defraying the expenses related to the Native American youth alcohol and drug abuse education program."

Renumber accordingly

#### STATEMENT OF PURPOSE OF AMENDMENT:

DEPARTMENT 316 - INDIAN AFFAIRS COMMISSION

SENATE - This amendment makes the following changes:



	1997-99 EXECUTIVE RECOMMENDATION	CHANGE FUNDING SOURCE OF YOUTH DRUG AND ALCOHOL GRANT PROGRAM <sup>1</sup>	INCREASE YOUTH DRUG AND ALCOHOL GRANT PROGRAM	TOTAL SENATE CHANGES	SENATE VERSION
Salaries and wages	\$230,410				\$230,410
Operating expenses	34,963				34,963
Grants	<u>145,500</u>		<u>\$54,500</u>	<u>\$54,500</u>	<u>200,000</u>
Total all funds	\$410,873	\$0	\$54,500	\$54,500	\$465,373
Less estimated income	<u>394</u>	<u>145,500</u>	<u>54,500</u>	<u>200,000</u>	<u>200,394</u>
General fund	\$410,479	\$(145,500)	\$0	\$(145,500)	\$264,979
FTE	3.00			0.00	3.00

<sup>1</sup> This amendment changes the funding source of the Native American youth drug and alcohol abuse education program from the general fund to other funds derived from the Children's Services Coordinating Committee.

## REPORT OF STANDING COMMITTEE

**SB 2113: Human Services Committee (Sen. Thane, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2113 was placed on the Sixth order on the calendar.

Page 1, line 1, replace "six" with "five"

Page 1, line 3, after the comma insert "and" and remove "and civil penalties for unauthorized practice of"

Page 1, line 4, remove "psychology"

Page 1, line 18, overstrike "of"

Page 2, line 4, overstrike "the rendering of" and insert immediately thereafter "providing"

Page 2, line 5, overstrike "and is without regard to" and insert immediately thereafter "regardless of"

Page 2, line 10, replace ", with" with "degree in"

Page 2, line 11, after the underscored comma insert "and"

Page 2, line 19, overstrike ", each of whom" and insert immediately thereafter ". At least one member must be engaged primarily in providing service in psychology, and at least one member must be engaged primarily in teaching, training, or research in psychology. Each member" and overstrike "have the following qualifications"

Page 2, line 21, overstrike "licensed" and after "psychologist" insert "licensed"

Page 2, line 23, overstrike "Has, at least five years prior to appointment," and insert immediately thereafter "Have"

Page 2, line 24, overstrike "as defined in this chapter" and insert immediately thereafter "at least five years before appointment"

Page 2, line 25, overstrike "Has been" and insert immediately thereafter "Have"

Page 2, line 26, overstrike "a period of"

Page 2, overstrike lines 27 through 29

Page 3, line 5, overstrike "but in" and insert immediately thereafter ". In"

Page 3, line 6, overstrike "residue" and insert immediately thereafter "remainder"

Page 3, line 11, overstrike "**thereof**"

Page 3, line 15, overstrike the comma

Page 3, line 26, replace "on proof that" with "if" and replace "has failed" with "fails"

Page 4, line 14, replace the first "the" with "an" and replace "has the power to" with "may"

Page 4, line 15, remove "to"

Page 4, line 16, replace "It" with "The board"

Page 4, line 18, remove "physicians or" and replace "professionals" with "professional"

Page 4, line 19, after "board" insert an underscored coma, replace "it appears to be" with "requiring an examination is", and remove "that this"

Page 4, line 20, remove "evaluation be secured" and remove "that are"

Page 4, line 22, remove "there is" and after "release" insert "is"

Page 4, line 24, replace "wherein" with "at which"

Page 4, line 30, overstrike "On or before" and insert immediately thereafter "Before"

Page 5, line 1, overstrike "to be", remove "rule", overstrike "of", and remove the overstrike over "~~not to exceed one hundred dollars~~"

Page 5, line 4, overstrike "has been" and insert immediately thereafter "is", overstrike "violation" and insert immediately thereafter "board shall revoke the license", and after "of" insert "person who violates"

Page 5, line 5, overstrike "is cause for revocation of", remove "a", overstrike "license", remove "issued", overstrike "by the board", overstrike "The" and insert immediately thereafter "Annually, the", and overstrike "annually"

Page 5, line 6, remove "currently"

Page 5, line 10, overstrike "Any" and insert immediately thereafter "A"

Page 5, line 11, overstrike "the provisions of", overstrike the comma, and overstrike "who" and insert immediately thereafter "whose license"

Page 5, line 12, overstrike "had", remove the first "the", overstrike the first "license" and insert immediately thereafter "been", overstrike "because of", replace the second "the" with "for", and overstrike the comma

Page 5, line 15, replace "to be determined by rule" with "in the amount" and replace "the board" with "twenty dollars"

Page 5, line 19, replace "absent" with "without" and remove "that"

Page 5, line 23, remove the underscored comma

Page 5, line 31, overstrike "the" and insert immediately thereafter "each applicant's"

Page 6, line 1, replace "the" with "each"

Page 6, line 2, remove "the" and overstrike "applicants" and insert immediately thereafter "each applicant"

Page 6, line 3, overstrike "or not" and after "required" insert "of an applicant"

Page 6, line 4, overstrike "or not" and insert immediately thereafter "a" and after "granted" insert "to an applicant"

Page 6, line 6, overstrike "Such other" and insert immediately thereafter "Any", overstrike "as may be deemed" and insert immediately thereafter "the board determines", and overstrike "by the"

Page 6, line 7, overstrike "board", overstrike "above", and after "requirements" insert "of this subsection"

Page 6, line 9, overstrike "set forth therein"

Page 6, line 10, overstrike "thereof" and insert immediately thereafter "of board proceedings"

Page 6, line 11, overstrike "force and"

Page 6, line 15, overstrike "and"

Page 6, line 16, overstrike "may" and after the third comma insert "may"

Page 6, line 23, overstrike "as a psychologist"

Page 6, line 24, overstrike "accompanied by" and insert immediately thereafter "submits"

Page 6, line 31, overstrike ", with" and insert immediately thereafter "degree in"

Page 7, line 24, overstrike "shall" and overstrike "prior"

Page 7, line 25, overstrike "to" and insert immediately thereafter "before" and after the comma insert "shall"

Page 8, line 1, after the second boldfaced period insert:

"1."

Page 8, line 4, overstrike "in accordance with the provisions of" and insert immediately thereafter "under"

Page 8, line 5, overstrike "that"

Page 8, line 6, overstrike "1" and insert immediately thereafter "a"

Page 8, line 7, overstrike "where" and insert immediately thereafter "when"

Page 8, line 8, overstrike "determines" and insert immediately thereafter "finds" and overstrike "following" and insert immediately thereafter "after the"

Page 8, line 10, overstrike "2" and insert immediately thereafter "b" and overstrike the second "any"

Page 8, line 14, overstrike "3" and insert immediately thereafter "c"

Page 8, line 16, overstrike "4" and insert immediately thereafter "d"

Page 8, line 17, overstrike "provided for in" and insert immediately thereafter "under"

Page 8, line 18, overstrike "5" and insert immediately thereafter "e"

Page 8, line 19, overstrike "or persons" and overstrike "perform" and insert immediately thereafter "performs"

Page 8, line 20, overstrike "their" and insert immediately thereafter "that person's"

Page 8, line 21, overstrike "6" and insert immediately thereafter "f" and overstrike ", the" and insert immediately thereafter ". The"

Page 8, line 22, overstrike "being" and insert immediately thereafter "is" and overstrike "thereof" and insert immediately thereafter "of that fact"

Page 8, line 23, overstrike "7" and insert immediately thereafter "g"

Page 8, line 27, overstrike "8" and insert immediately thereafter "h"

Page 8, line 28, overstrike "9" and insert immediately thereafter "i" and overstrike "any of the provisions of"

Page 8, line 29, replace "10" with "j"

Page 8, line 31, after the overstruck period insert:

"2."

Page 9, line 1, overstrike the first comma, overstrike "the provisions of", and overstrike the second comma

Page 9, line 6, replace the first "the" with "a" and remove "deemed to be"

Page 9, line 7, remove "the provisions of" and replace "apply" with "applies"

Page 9, line 13, overstrike "the provisions of"

Page 9, line 16, overstrike "**the provisions of**" and overstrike "The provisions of"

Page 9, line 17, overstrike "this" and insert immediately thereafter "This", overstrike "do" and insert immediately thereafter "does", and overstrike "the following"

Page 9, line 30, after "college" insert an underscored comma and overstrike "constitute" and insert immediately thereafter "are"

Page 9, line 31, overstrike "person" and insert immediately thereafter "student or intern"

Page 10, line 5, overstrike ", duly"

Page 10, line 8, after "lecturer" insert an underscored comma and after "college" insert an underscored comma

Page 10, line 12, overstrike "Any" and insert immediately thereafter "A" and overstrike "who is"

Page 10, line 18, overstrike "who is"

Page 10, line 22, replace "The practice of psychology by an" with "An"

Page 10, line 23, replace "provided" with "if"

Page 10, line 28, replace "as long as" with "if"

Page 11, remove lines 1 through 10

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**SB 2119: Education Committee (Sen. Freborg, Chairman)** recommends **DO NOT PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2119 was placed on the Eleventh order on the calendar.

#### REPORT OF STANDING COMMITTEE

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

Page 1, line 6, remove the overstrike over "~~An~~", remove "For a child in foster care, an initial" and remove the overstrike over "~~pursuant to which a child~~"

Page 1, line 7, remove the overstrike over "~~is placed in foster care~~"

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**SB 2161: Industry, Business and Labor Committee (Sen. Mutch, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2161 was placed on the Sixth order on the calendar.

Page 1, line 10, after "inspections" insert "must be licensed as a journeyman electrician or"

Page 1, line 14, after "inspections" insert "and who is not seeking journeyman electrician licensure" and replace "prior to" with "before"

Page 1, line 15, after "examination" insert "pursuant to this section"

Page 1, line 22, after "inspections" insert "must be licensed as a journeyman plumber or"

Page 1, line 24, replace "Notwithstanding section 43-09-11, the" with "The"

Page 2, line 1, after "inspections" insert "and who is not seeking journeyman plumber licensure"

Page 2, line 3, after "examination" insert "pursuant to this section"

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**SB 2197: Human Services Committee (Sen. Thane, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). SB 2197 was placed on the Sixth order on the calendar.

Page 1, line 17, remove the overstrike over "~~ten~~", remove "twenty-five", and replace "ten" with "five"

Page 2, line 3, remove the overstrike over "~~ten~~", remove "twenty-five", and replace "ten" with "five"

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**SB 2243: Political Subdivisions Committee (Sen. Andrist, Chairman)** recommends **DO NOT PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2243 was placed on the Eleventh order on the calendar.

#### REPORT OF STANDING COMMITTEE

**SB 2255: Natural Resources Committee (Sen. Traynor, Chairman)** recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2255 was placed on the Eleventh order on the calendar.

#### REPORT OF STANDING COMMITTEE

**SB 2263: Finance and Taxation Committee (Sen. Urlacher, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (6 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). SB 2263 was placed on the Sixth order on the calendar.

Page 2, line 24, after the first period insert "**CONTINGENT**" and replace "There" with "If the child care services trust fund provided for in House Bill No. 1465, as approved by the fifty-fifth legislative assembly, is established, there"

Page 2, line 26, replace "dental services" with "deposit in the child care services trust fund,"

Page 2, line 27, remove "under the medical assistance program"

Page 2, line 28, replace "expanded access to dental" with "administering and maintaining the child care services trust fund, ensuring quality child care services, and developing child care resource and referral programs."

Page 2, remove line 29

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**SB 2268: Political Subdivisions Committee (Sen. Andrist, Chairman)** recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2268 was rereferred to the **Appropriations Committee**.

#### REPORT OF STANDING COMMITTEE

**SB 2286: Human Services Committee (Sen. Thane, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2286 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new chapter to title 51 of the North Dakota Century Code, relating to assistive technology device warranties; and to provide a penalty."

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1.** A new chapter to title 51 of the North Dakota Century Code is created and enacted as follows:

**Definitions.** In this chapter, unless the context otherwise requires:

1. "Assistive technology device" means any item, piece of equipment, or product system that a consumer purchases or accepts transfer of in this state and which is used to increase, maintain, or improve the functional capabilities of individuals with disabilities.

- a. The term includes:

- (1) Manual wheelchairs, motorized wheelchairs, motorized scooters, and other aids that enhance the mobility or positioning of an individual, such as positioning features, the switches and controls for any motorized or nonmotorized features, and hydraulic or nonhydraulic lifts or elevators designed to transport an individual from one location or level to another in private personal vehicles or private residences.
  - (2) Telephone communication devices for the deaf, assistive listening devices, and other aids that enhance an individual's ability to hear, except for hearing instruments excluded by subdivision b.
  - (3) Voice-synthesized computer modules, optical scanners, talking software, braille printers, artificial larynges, voice amplification devices, alternative augmentative communication devices, and other devices that enhance an individual's ability to communicate, except for those items excluded by subdivision b.
  - (4) Voice recognition computer equipment, software and hardware accommodations, switches, and other forms of alternative access to computers.
  - (5) Adapted environmental control units.
  - (6) Any other assistive device, instrument, apparatus, or any component, part, or accessory that enables an individual with a disability to perform tasks such as communicating, speaking, seeing, hearing, maneuvering, moving, walking, standing, reaching, grasping, working, sleeping, learning, or caring for oneself, or which are used or intended to be used to assist, affect, or replace the structure or any function of the body of an individual with a disability, except for those items excluded by subdivision b.
- b. The term does not include:
  - (1) Devices that are modified or customized pursuant to consumer design and specifications;
  - (2) Hearing instruments as defined in subsection 2 of section 43-33-01;
  - (3) Eyeglasses;
  - (4) A surgical implant performed by a physician or surgeon; or
  - (5) A restoration or dental prosthesis provided by a dentist.
2. "Commercial lessor" means a person who is in the business of leasing assistive technology devices to consumers, or who holds the lessor's rights.
3. "Commercial seller" means a person who is in the business of selling or manufacturing assistive technology devices.
4. "Consumer" means:
  - a. The purchaser of an assistive technology device from a commercial seller for personal use;
  - b. A person to whom an assistive technology device is transferred for personal use when all express warranties have not yet expired;
  - c. A person who may enforce the warranty on an assistive technology device;
  - d. A person who leases an assistive technology device from a commercial lessor; or

- e. The parent or guardian of a person who is a consumer under subdivisions a through d.
- 5. a. "In need of repair" means:
  - (1) A specific condition, generic defect, or malfunction that substantially impairs the use, value, or safety of an assistive technology device or any of its component parts; or
  - (2) The assistive technology device or a component of the assistive technology device fails to conform to:
    - (a) Any applicable express warranties; or
    - (b) Any implied warranties including the implied warranty of merchantability described in section 41-02-31 and the implied warranty of fitness for a particular purpose described in section 41-02-32.
- b. The term does not include a condition or defect that is the result of abuse or unforeseen alteration of the assistive technology device by the consumer.
- 6. "Loaner" means an assistive technology device that is loaned to the user without charge while repairs are made to the user's assistive technology device. A loaner must:
  - a. Be in good working order;
  - b. Perform the essential functions of the assistive technology device that is being repaired, considering the needs of the user; and
  - c. Not create a threat to the safety of the user.
- 7. "Manufacturer" means:
  - a. A person who manufactures or assembles assistive technology devices;
  - b. A person who manufactures or assembles any part of an assistive technology device; and
  - c. All persons involved in the manufacture, distribution, or sales of assistive technology devices up to the final retail seller or commercial lessor.
- 8. "Reasonable attempt to repair" means that, within one year after first delivery of the assistive technology device to a consumer or within the life of an express warranty, whichever is longer:
  - a. The assistive technology device is presented to the commercial seller in need of repair at least four times and it is again in need of repair; or
  - b. The assistive technology device is in need of repair and available to the seller for repair for at least thirty days. These thirty days may be consecutive or nonconsecutive.
- 9. "Transaction costs" means expenses caused by a covered repair including the costs of a loaner.

**Express written warranties for assistive technology devices.**

- 1. A manufacturer who sells an assistive technology device to a consumer, either directly or through another commercial seller, shall furnish the consumer with an express written warranty to preserve and maintain the utility and performance of the assistive technology device.
- 2. The express written warranty must be in effect for at least one year after first delivery of the assistive technology device to the consumer.



3. If a manufacturer fails to furnish an express written warranty to the consumer, the assistive technology device must be covered by an express warranty that meets the requirements of this section.
4. An express written warranty must guarantee that the assistive technology device:
  - a. Has no defects in parts or performance; and
  - b. Is free from any condition and defect that would substantially impair the device's use, value, or safety to the consumer.

**Warranty claims.**

1. A consumer may present a warranty claim for an assistive technology device by:
  - a. Reporting the warranty problem to the manufacturer, the commercial lessor, or the commercial seller within the life of the express warranty; and
  - b. Making the assistive technology device reasonably available to the manufacturer, the commercial lessor, or the commercial seller for repair.
2. If the terms of a warranty are invoked and a warranty claim is made, the assistive technology device must be repaired at no charge to the consumer, including parts, labor, shipping, delivery, and all other costs, regardless of whether the repairs are made after the expiration of the warranty period.
3. The commercial seller or the commercial lessor shall provide the consumer with a loaner and with reimbursement for transaction costs to the consumer from the repair:
  - a. If the repair period is expected to be at least ten days; or
  - b. If the repair period is not expected to be ten days but actually is ten days or more.
4. The costs of any warranty repair, loaner, or transaction costs due the consumer from the repair are to be borne in the first instance by the commercial seller or commercial lessor. The commercial seller and the commercial lessor may have rights to reimbursement or compensation from the manufacturer or other prior parties in the sales or distribution chain. Those rights of the commercial seller or commercial lessor are not affected by this chapter.

**Remedies - Sales.**

1. If, after a reasonable attempt to repair by the commercial seller or manufacturer, the assistive technology device is not repaired, the warranty is considered breached.
2. If the warranty is breached, the consumer may return the assistive technology device to the commercial seller that sold the device and the consumer may choose to either:
  - a. Receive a new replacement assistive technology device from the commercial seller and be reimbursed by the commercial seller for transaction costs; or
  - b. Receive a full refund of the purchase price plus any finance charges from the commercial seller, and be reimbursed by the commercial seller for transaction costs.
3. The following conditions apply to the remedies in this section:
  - a. The commercial seller is allowed up to thirty days after return of the original assistive technology device to pay transaction costs to the

consumer and to provide the consumer with either a new replacement assistive technology device or a full refund of the purchase price plus any finance charges.

- b. If a new replacement assistive technology device is not provided or if a full refund is not paid when the consumer returns the original assistive technology device, the commercial seller must provide a loaner to the consumer to use until the commercial seller has provided to the consumer a new replacement assistive technology device or a full refund of the purchase price plus any finance charges.
- c. The consumer may not be required to deal directly with any person other than the commercial seller that sold the assistive technology device. If agreeable, the consumer may deal with the manufacturer or other prior parties in the sales or distribution chain. If the commercial seller is no longer selling assistive technology devices, the consumer may deal with the seller's successor.
- d. The costs of a new replacement assistive technology device, a full refund, any loaner, and transaction costs due the consumer are to be borne in the first instance by the commercial seller. The commercial seller may have rights to reimbursement or compensation from the manufacturer or other prior parties in the sales or distribution chain. Those rights of the commercial seller are not affected by this chapter.

#### **Remedies - Leases.**

- 1. If, after a reasonable attempt to repair by the commercial lessor or manufacturer, the assistive technology device is not repaired, the warranty is considered breached.
- 2. If the warranty is breached, the consumer may return the assistive technology device to the commercial lessor that leased the device and the consumer may choose to either:
  - a. Receive a new replacement assistive technology device from the commercial lessor; or
  - b. Receive a full refund from the commercial lessor of all moneys paid under the lease, including all finance charges.
- 3. The following conditions apply to the remedies in this section:
  - a. The commercial lessor is allowed up to thirty days after return of the original assistive technology device to provide to the consumer either a new replacement assistive technology device or a full refund of all moneys paid under the lease, including any finance charges.
  - b. If a new replacement assistive technology device is not provided or if a full refund is not paid when the consumer returns the original assistive technology device, the commercial lessor shall provide a loaner to the consumer to use until the lessor has provided to the consumer a new replacement assistive technology device or a full refund of all moneys paid under the lease, including any finance charges.
  - c. The consumer may not recover transaction costs and the commercial lessor may not recover for use of the assistive technology device before the return of the device on a warranty claim.
  - d. The consumer may not be required to deal directly with any person other than the commercial lessor that leased the assistive technology device. If agreeable, the consumer may deal with the manufacturer or other prior parties in the leasing, sales, or distribution chain. If the commercial lessor is no longer dealing in assistive technology devices, the consumer may deal with the lessor's successor.
  - e. The costs of a new replacement assistive technology device, a full refund, and any loaner are to be borne in the first instance by the commercial lessor. The commercial lessor may have rights to

reimbursement or compensation from the manufacturer or other prior parties in the leasing, sales, or distribution chain. Those rights of the commercial lessor are not affected by this chapter.

**Thirty-day return.** A commercial seller or commercial lessor who sells or leases an assistive technology device to a consumer may not refuse to accept a return of the assistive technology device within thirty days after the purchase or lease if the assistive technology device has not met the needs of the consumer.

**Sale or lease of a returned assistive technology device.** No assistive technology device returned by a consumer or lessor may be sold or leased again in this state unless full disclosure of the reasons for the return of the device is made to the consumer.

**Other remedies - Penalties.**

1. This chapter does not limit rights or remedies available to a consumer under any other law or contract.
2. Any waiver of rights by a consumer under this chapter, any waiver of the implied warranty of merchantability for an assistive technology device, and any waiver of the implied warranty of fitness for a particular purpose for an assistive technology device is void.
3. In addition to pursuing any other remedy, a consumer may bring an action to recover for any damages caused by a violation of this chapter. The court shall award a consumer who prevails in an action to recover damages caused by a violation of this chapter twice the amount of any pecuniary loss together with costs, disbursements, reasonable attorney fees, and any equitable relief that the court finds appropriate.
4. Any right to bring a class action under this chapter is properly regulated by the judiciary. The supreme court, acting in its rulemaking capacity or otherwise, has full authority under the Constitution of North Dakota to regulate class actions."

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**SB 2294: Natural Resources Committee (Sen. Traynor, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (4 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2294 was placed on the Sixth order on the calendar.

Page 1, line 1, replace "section" with "sections"

Page 2, line 14, after the period insert "Within ten days after the date of the first publication, each affected landowner as shown by the tax rolls of the county or counties in which the proposed project is located must be mailed a notice of the hearing at the landowner's address as shown by the records."

Page 4, line 2, after the period insert "Within ten days after the date of the first publication, each affected landowner as shown by the tax rolls of the county or counties in which the proposed project is located must be mailed a notice of the hearing at the landowner's address as shown by the records."

Page 5, line 27, after the underscored period insert "Within ten days after the date of the first publication, each affected landowner as shown by the tax rolls of the county or counties in which the proposed drain is located must be mailed a notice of the hearing at the landowner's address as shown by the records."

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**SB 2304: Human Services Committee (Sen. Thane, Chairman)** recommends **DO NOT PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2304 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2314: Education Committee (Sen. Freborg, Chairman)** recommends **DO NOT PASS** (5 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2314 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2326: Finance and Taxation Committee (Sen. Urlacher, Chairman)** recommends **DO NOT PASS** (4 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING). SB 2326 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2339: Finance and Taxation Committee (Sen. Urlacher, Chairman)** recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2339 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2349: Finance and Taxation Committee (Sen. Urlacher, Chairman)** recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (5 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2349 was rereferred to the **Appropriations Committee**.

**REPORT OF STANDING COMMITTEE**

**SB 2361: Agriculture Committee (Sen. Wanzek, Chairman)** recommends **DO PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2361 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2372: Political Subdivisions Committee (Sen. Andrist, Chairman)** recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2372 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2393: Agriculture Committee (Sen. Wanzek, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2393 was placed on the Sixth order on the calendar.

Page 2, line 29, after "fees" insert "as required by law"

Page 3, line 21, after the second "fees" insert "as required by law"

Page 5, line 27, after the second "fees" insert "as required by law"

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**SCR 4011: Finance and Taxation Committee (Sen. Urlacher, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (5 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SCR 4011 was placed on the Sixth order on the calendar.

Page 1, line 2, replace "an income, sales and use, or motor vehicle" with "any fee"

Page 1, line 3, remove "special fuels"

Page 1, line 6, remove "in the rate", replace "state income, sales and use," with "any fee", and replace "motor vehicle or special fuels" with "tax."

Page 1, remove line 7

Page 1, line 16, replace "the rate of income, sales and use, or motor vehicle" with "any fee" and replace "special fuels" with "tax"

Page 1, line 17, remove "taxes"

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**SCR 4016: Human Services Committee (Sen. Thane, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS**

(6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SCR 4016 was placed on the Sixth order on the calendar.

Page 1, line 16, after "match" insert ", dollar for dollar," and after "funds" insert "provided for the visually impaired older in-home training program"

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**HB 1020: Appropriations Committee (Sen. Nething, Chairman)** recommends **DO PASS** (10 YEAS, 0 NAYS, 3 ABSENT AND NOT VOTING). HB 1020 was placed on the Fourteenth order on the calendar.

#### REPORT OF STANDING COMMITTEE

**HB 1107, as engrossed: Finance and Taxation Committee (Sen. Urlacher, Chairman)** recommends **DO PASS** (5 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). Engrossed HB 1107 was placed on the Fourteenth order on the calendar.

#### REPORT OF STANDING COMMITTEE

**HB 1120: Finance and Taxation Committee (Sen. Urlacher, Chairman)** recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1120 was placed on the Fourteenth order on the calendar.

#### REPORT OF STANDING COMMITTEE

**HB 1127: Political Subdivisions Committee (Sen. Andrist, Chairman)** recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1127 was placed on the Fourteenth order on the calendar.

#### REPORT OF STANDING COMMITTEE

**HB 1171: Political Subdivisions Committee (Sen. Andrist, Chairman)** recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1171 was placed on the Fourteenth order on the calendar.

#### FIRST READING OF HOUSE BILLS

**HB 1028:** A BILL for an Act to provide an appropriation for defraying the expenses of various state departments and institutions; to provide for a transfer from the accumulated and undivided profits of the Bank of North Dakota to the general fund; to create and enact a new section to chapter 5 of the 1995 Session Laws, relating to capital improvements at the north central research center; to amend and reenact section 4 of chapter 25 of the 1995 Session Laws, relating to state employee defense costs; and to declare an emergency.

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

**HB 1103:** A BILL for an Act to provide for the privacy of driver and motor vehicle records; to amend and reenact section 39-02-05 of the North Dakota Century Code, relating to records of the department; and to provide a penalty.

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

**HB 1134:** A BILL for an Act to create and enact a new section to chapter 43-30 of the North Dakota Century Code, relating to continuing education requirements for private investigative and security officers; and to amend and reenact sections 43-30-06, 43-30-10, 43-30-12, 43-30-13, and 43-30-16 of the North Dakota Century Code, relating to injunctive power of the private investigative and security board, disciplinary action, disciplinary hearing, and fees.

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

**HB 1160:** A BILL for an Act to create and enact three new sections to chapter 43-47 of the North Dakota Century Code, relating to the authority of the board of counselor examiners to appoint or employ persons, payment of delinquent license fees, and unauthorized practice of counseling; to amend and reenact section 43-47-01, subsection 3 of section 43-47-02, sections 43-47-03, 43-47-06, and 43-47-08 of the North Dakota Century Code, relating to definitions, duties, responsibilities, license qualifications, and complaints and investigations applicable to the board of counselor examiners; and to provide a penalty.

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

**HB 1482:** A BILL for an Act to provide for the issuance of bonds to finance construction of an outlet to Devils Lake and to finance a statewide water development program; to provide an appropriation; and to declare an emergency.

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

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

**William C. Parker, Secretary**