

## JOURNAL OF THE SENATE

## Fifty-seventh Legislative Assembly

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Bismarck, April 25, 2001

The Senate convened at 8:30 a.m., with President Dalrymple presiding.

The prayer was offered by Senator Nething.

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

A quorum was declared by the President.

**DELIVERY OF ENROLLED BILLS AND RESOLUTIONS**

The following bills were delivered to the Governor for approval on April 25, 2001: SB 2009, SB 2012, SB 2015, SB 2017, SB 2166, SB 2167, SB 2276, SB 2347.

**APPOINTMENT OF CONFERENCE COMMITTEE**

**SEN. NETHING MOVED** that the President appoint a committee of three to act with a like committee from the House as a Conference Committee on Engrossed HB 1013, which motion prevailed.

**THE PRESIDENT APPOINTED** as a Conference Committee on Engrossed HB 1013: Sens. Holmberg, Freborg, Robinson.

**CONSIDERATION OF CONFERENCE COMMITTEE REPORT**

**SEN. MUTCH MOVED** that the conference committee report on Engrossed SB 2032 as printed on SJ pages 1518-1524 be adopted.

**REQUEST**

**SEN. HEITKAMP REQUESTED** a recorded roll call vote on the motion to adopt the conference committee report on Engrossed SB 2032, which request was granted.

**ROLL CALL**

The question being on the motion to adopt the conference committee report on Engrossed SB 2032, the roll was called and there were 26 YEAS, 22 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bowman; Christmann; Cook; Erbele; Fischer; Flakoll; Freborg; Grindberg; Holmberg; Kilzer; Klein; Kringstad; Lee; Lyson; Mutch; Nelson, G.; Nething; Stenehjerm; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wanzek; Watne

**NAYS:** Bercier; Christenson; Dever; Espegard; Every; Heitkamp; Kelsh; Krauter; Krebsbach; Kroepelin; Lindaas; Mathern, D.; Mathern, T.; Nelson, C.; Nichols; O'Connell; Polovitz; Robinson; Schobinger; Tallackson; Tomac; Wardner

**ABSENT AND NOT VOTING:** Solberg

The conference committee report on Engrossed SB 2032 was adopted.

Engrossed SB 2032, as amended, was placed on the Eleventh order.

**SECOND READING OF SENATE BILL**

**SB 2032:** A BILL for an Act to create and enact a new chapter to title 54 of the North Dakota Century Code, relating to creation of a department of commerce; to amend and reenact sections 4-14.1-03, 4-14.1-04, 6-12-02, subsection 6 of section 10-30-04, subsection 4 of section 10-30.5-02, section 10-30.5-05, subsection 6 of section 10-30.6-04, subsection 3 of section 20.1-02-17.1, sections 20.1-02-18.1, 21-11-02, 21-11-03, 21-11-04, 21-11-05, 21-11-06, 24-03-21, subsection 4 of section 26.1-50-01, sections 26.1-50-02, 28-32-01, 40-57.1-04, 49-10.1-17, subsection 4 of section 50-06-01.8, section 52-01-03, subsection 5 of section 52-02.1-01, section 54-01.1-08, subsection 1 of section 54-06-04, section 54-21.2-03, subsection 1 of section 54-21.3-03, sections 54-21.3-04.1, 54-34-12, 54-34-15, 54-34.3-01, 54-34.3-02, 54-34.3-03, 54-34.3-04, 54-34.3-05, 54-34.3-06, 54-34.3-08, 54-34.3-10, 54-34.3-11, 54-34.4-01, 54-34.4-02, 54-34.4-04, subsection 15 of section 54-44.3-20, sections 54-44.5-01, 54-44.5-02, 54-44.5-03, 54-44.5-05, 54-53-02, 55-01-01, 55-06-01, 57-38-29, 57-38-30.3, 57-38-54,

subsection 1 of section 57-38.5-01, section 57-38.5-08, and subsection 6 of section 57-39.2-28 of the North Dakota Century Code, relating to merging the division of community services, department of economic development and finance, and tourism department into a department of commerce, income tax filing methods for individuals, and publication of statistics by the tax commissioner; to repeal section 54-34.3-09 of the North Dakota Century Code, relating to the department of economic development and finance; to provide for correction of statutory references; to provide an appropriation; 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 36 YEAS, 12 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bowman; Christmann; Cook; Dever; Erbele; Espegard; Every; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kilzer; Klein; Krebsbach; Kringstad; Lee; Lindaas; Lyson; Mutch; Nelson, G.; Nething; Robinson; Schobinger; Stenehjem; Tallackson; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wanzek; Wardner; Watne

**NAYS:** Bercier; Christenson; Kelsh; Krauter; Kroeplin; Mathern, D.; Mathern, T.; Nelson, C.; Nichols; O'Connell; Polovitz; Tomac

**ABSENT AND NOT VOTING:** Solberg

Reengrossed SB 2032 passed and the title was agreed to.

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**MESSAGE TO THE SENATE FROM THE HOUSE (MARK L. JOHNSON, CHIEF CLERK)**  
**MR. PRESIDENT:** The House has concurred in the Senate amendments and subsequently passed: HB 1479.

**MESSAGE TO THE SENATE FROM THE HOUSE (MARK L. JOHNSON, CHIEF CLERK)**  
**MR. PRESIDENT:** The House has adopted the conference committee report, subsequently passed, and the emergency clause carried: SB 2019.

**MESSAGE TO THE SENATE FROM THE HOUSE (MARK L. JOHNSON, CHIEF CLERK)**  
**MR. PRESIDENT:** The House has adopted the conference committee report and subsequently passed: SB 2021.

**MESSAGE TO THE SENATE FROM THE HOUSE (MARK L. JOHNSON, CHIEF CLERK)**  
**MR. PRESIDENT:** The Speaker has appointed as a new conference committee to act with a like committee from the Senate on:

**SB 2354:** Reps. Porter; Kliniske; Metcalf

**MESSAGE TO THE SENATE FROM THE HOUSE (MARK L. JOHNSON, CHIEF CLERK)**  
**MR. PRESIDENT:** The House has not adopted the conference committee report SB 2088 and the Speaker has appointed as a new conference committee to act with a like committee from the Senate on:

**SB 2088:** Reps. Weisz; Price; Mahoney

**MESSAGE TO THE SENATE FROM THE HOUSE (MARK L. JOHNSON, CHIEF CLERK)**  
**MR. PRESIDENT:** The Speaker has appointed Rep. Wald to replace Rep. Martinson on the Conference Committee on HB 1020.

#### MOTION

**SEN. CHRISTMANN MOVED** that the Senate stand in recess until 12:30 p.m., which motion prevailed.

**THE SENATE RECONVENED** pursuant to recess taken, with President Dalrymple presiding.

#### APPOINTMENT OF CONFERENCE COMMITTEE

**SEN. STENEHJEM MOVED** that the President appoint a committee of three to act with a like committee from the House as a new Conference Committee on SB 2088, which motion prevailed.

**THE PRESIDENT APPOINTED** as a new Conference Committee on SB 2088: Sens. Stenehjem, Trenbeath, O'Connell.

**REPORT OF CONFERENCE COMMITTEE**

**SB 2043, as engrossed:** Your conference committee (Sens. Krebsbach, Wardner, C. Nelson and Reps. Berg, Skarphol, Lemieux) recommends that the **HOUSE RECEDE** from the House amendments on SJ pages 1232-1235, adopt amendments as follows, and place SB 2043 on the Seventh order:

That the House recede from its amendments as printed on pages 1232-1235 of the Senate Journal and pages 1360-1362 of the House Journal and that Engrossed Senate Bill No. 2043 be amended as follows:

Page 1, line 1, after "to" insert "create and enact a new section to chapter 54-59 of the North Dakota Century Code, relating to the preparation of an information technology department annual report; to"

Page 1, line 4, after "department" insert "; and to provide a statement of legislative intent"

Page 2, line 19, after the period insert "An agreement to finance the purchase of software, equipment, or implementation services may not exceed a period of three years. The department shall submit any intended financing proposal for the purchase of software, equipment, or implementation services under this subsection, which is in excess of one million dollars, to the budget section of the legislative council before executing a financing agreement. If the budget section does not approve the execution of a financing agreement, the department may not proceed with the proposed financing arrangement. The department may finance the purchase of software, equipment, or implementation services only to the extent the purchase amount does not exceed the amount appropriated to the department during that biennium for equipment."

Page 4, line 1, replace "Section" with "If Senate Bill No. 2251 does not become effective, section"

Page 4, overstrike line 12

Page 4, line 13, overstrike "representing a", remove "workforce training advisory board", and overstrike the comma

Page 4, line 14, remove "one member", overstrike "representing", and remove "city or county"

Page 4, line 15, remove "government; one member representing the greater North Dakota association" and overstrike ", one member"

Page 4, overstrike line 16

Page 4, line 17, overstrike "commission to operate in this state,"

Page 4, line 18, remove "one member representing"

Page 4, line 19, remove "Indian tribes, and one member representing the hospital telemedicine industry" and overstrike the period

Page 5, after line 3, insert:

**"SECTION 5. AMENDMENT.** If Senate Bill No. 2251 becomes effective, section 54-59-07 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**54-59-07. ~~Statewide wide area network~~ State information technology advisory committee.** The ~~statewide wide area network~~ state information technology advisory committee consists of the chief information officer or the officer's designee, who is a nonvoting member; the ~~state court administrator~~ director of the department of economic development and finance or the ~~administrator's~~ director's designee, ~~with the approval of the chief justice of the supreme court~~; the commissioner of higher education or the commissioner's designee; the chairman of the information technology council of North Dakota or a designee; the director of the North Dakota workforce development council or a designee; the chairman of the educational technology council or a designee; and nine eight members appointed by the governor. ~~The governor shall appoint two members representing state agencies, one member representing a county, one member representing a city, two members representing elementary and secondary education, one member representing noncommercial public television stations licensed by the federal communications commission to operate in this state, and two members from private industry who are knowledgeable in the deployment of major technology~~

projects. ~~The governor's appointees from private industry serve two year terms, and other appointees of the governor serve at the pleasure of the governor. The governor shall designate the chairman of the committee. The department shall provide staff services to the committee. Except for the commissioner of higher education and the representatives of state agencies who receive compensation for their duties as state officers or employees, members of the committee are entitled to be compensated for time spent in attendance at meetings of the committee and for other travel as approved by the chairman of the committee at the rate of sixty-two dollars and fifty cents per day and are entitled to reimbursement for their actual and necessary expenses incurred in the same manner as other state officials. The compensation and expenses are to be paid from appropriations for the department. The committee shall advise the department with respect to planning and implementation of wide area network services provided by the department regarding statewide information technology planning, including providing electronic government services for citizens and businesses, developing technology infrastructure to support economic development and workforce training, and developing other statewide information technology initiatives and policy."~~

Page 6, after line 15, insert:

**"SECTION 8.** A new section to chapter 54-59 of the North Dakota Century Code is created and enacted as follows:

Information technology department annual report. The department shall prepare and present an annual report to the information technology committee. In addition to the presentation of the annual report to the information technology committee, the department shall present a summary of the annual report to the budget section and to the legislative audit and fiscal review committee. The report must contain:

1. A list of major projects started, ongoing, and completed during the year including related budgeted and actual costs and the estimated implementation date for each project as well as the actual implementation date for completed projects.
2. A list of all projects for which financing agreements have been executed.
3. Information regarding evaluations of cost-benefit analyses for completed projects.
4. A comparison of the department's rates charged for services compared to rates charged for comparable services in other states and in the private sector.
5. Information regarding the information technology plans including the department's plan review process, the number of plans reviewed, and the number of plans approved.
6. A description of the benefits to the state resulting from its investment in information technology.

**SECTION 9. LEGISLATIVE INTENT - PERFORMANCE MEASURES.** It is the intent of the legislative assembly that the information technology department develop performance measures to assist the legislative assembly in determining the effectiveness and efficiency of the department's operations during the biennium beginning July 1, 2001, and ending June 30, 2003. Each performance measure must include a benchmark for targeted department performance based on national, other states, or private sector performance. The department shall report to the information technology committee, the budget section, and the legislative audit and fiscal review committee during the 2001-02 interim on the performance measures developed."

ReNUMBER accordingly

Engrossed SB 2043 was placed on the Seventh order of business on the calendar.

#### **CONSIDERATION OF CONFERENCE COMMITTEE REPORT**

**SEN. KREBSBACH MOVED** that the conference committee report on Engrossed SB 2043 be adopted, which motion prevailed on a voice vote.

Engrossed SB 2043, as amended, was placed on the Eleventh order.

**SECOND READING OF SENATE BILL**

**SB 2043:** A BILL for an Act to create and enact a new section to chapter 54-59 of the North Dakota Century Code, relating to the preparation of an information technology department annual report; to amend and reenact section 54-35-15.2, subsection 4 of section 54-59-05, and sections 54-59-06, 54-59-07, 54-59-11, and 54-59-16 of the North Dakota Century Code, relating to powers, duties, and responsibilities of the information technology committee and the information technology department; and to provide a statement of legislative intent.

**ROLL CALL**

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 48 YEAS, 0 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bercier; Bowman; Christenson; Christmann; Cook; Dever; Erbele; Espegard; Every; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kelsh; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Kroeplin; Lee; Lindaas; Lyson; Mathern, D.; Mathern, T.; Mutch; Nelson, C.; Nelson, G.; Nething; Nichols; O'Connell; Polovitz; Robinson; Schobinger; Stenehjem; Tallackson; Thane; Tollefson; Tomac; Traynor; Trenbeath; Urlacher; Wanzek; Wardner; Watne

**ABSENT AND NOT VOTING:** Solberg

Reengrossed SB 2043 passed and the title was agreed to.

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**REPORT OF CONFERENCE COMMITTEE**

**SB 2354, as engrossed:** Your conference committee (Sens. Lee, Fischer, Polovitz and Reps. Porter, Kliniske, Metcalf) recommends that the **SENATE ACCEDE** to the House amendments on SJ page 1326 and place SB 2354 on the Seventh order.

Engrossed SB 2354 was placed on the Seventh order of business on the calendar.

**CONSIDERATION OF CONFERENCE COMMITTEE REPORT**

**SEN. LEE MOVED** that the conference committee report on Engrossed SB 2354 be adopted.

**REQUEST**

**SEN. HEITKAMP REQUESTED** a recorded roll call vote on the motion to adopt the conference committee report on Engrossed SB 2354, which request was granted.

**ROLL CALL**

The question being on the motion to adopt the conference committee report on Engrossed SB 2354, the roll was called and there were 35 YEAS, 13 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bowman; Christenson; Christmann; Cook; Dever; Erbele; Espegard; Fischer; Flakoll; Freborg; Grindberg; Holmberg; Kilzer; Klein; Krebsbach; Kringstad; Lee; Lyson; Mathern, D.; Mutch; Nelson, C.; Nelson, G.; Nething; Polovitz; Schobinger; Stenehjem; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wanzek; Wardner; Watne

**NAYS:** Bercier; Every; Heitkamp; Kelsh; Krauter; Kroeplin; Lindaas; Mathern, T.; Nichols; O'Connell; Robinson; Tallackson; Tomac

**ABSENT AND NOT VOTING:** Solberg

The conference committee report on Engrossed SB 2354 was adopted.

Engrossed SB 2354, as amended, was placed on the Eleventh order.

**SECOND READING OF SENATE BILL**

**SB 2354:** A BILL for an Act to provide for a legislative council study of an alternatives-to-abortion services program.

**ROLL CALL**

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 48 YEAS, 0 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bercier; Bowman; Christenson; Christmann; Cook; Dever; Erbele; Espegard; Every; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kelsh; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Kroeplin; Lee; Lindaas; Lyson; Mathern, D.; Mathern, T.;

Mutch; Nelson, C.; Nelson, G.; Nething; Nichols; O'Connell; Polovitz; Robinson; Schobinger; Stenehjem; Tallackson; Thane; Tollefson; Tomac; Traynor; Trenbeath; Urlacher; Wanzek; Wardner; Watne

**ABSENT AND NOT VOTING:** Solberg

Reengrossed SB 2354 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 adopted the conference committee report and subsequently passed: SB 2043, SB 2354.

**MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)**

**MR. SPEAKER:** The President has appointed as a new conference committee to act with a like committee from the House on:

**SB 2088:** Sens. Stenehjem; Trenbeath; O'Connell

**MESSAGE TO THE SENATE FROM THE HOUSE (MARK L. JOHNSON, CHIEF CLERK)**

**MR. PRESIDENT:** The House has concurred in the Senate amendments and subsequently passed: HB 1326 and HB 1301.

**MESSAGE TO THE SENATE FROM THE HOUSE (MARK L. JOHNSON, CHIEF CLERK)**

**MR. PRESIDENT:** The House has adopted the conference committee report and subsequently passed: SB 2032.

**MESSAGE TO THE SENATE FROM THE HOUSE (MARK L. JOHNSON, CHIEF CLERK)**

**MR. PRESIDENT:** The House has adopted the conference committee report on SB 2361.

**MOTION**

**SEN. CHRISTMANN MOVED** that the Senate stand in recess until 5:00 p.m., which motion prevailed.

**THE SENATE RECONVENED** pursuant to recess taken, with President Dalrymple presiding.

**MOTION**

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

**MOTION**

**SEN. CHRISTMANN MOVED** that the Senate be on the Fourth and Seventh orders of business and at the conclusion of those orders, the Senate stand adjourned until 8:30 a.m., Thursday, April 26, 2001, which motion prevailed.

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

**WILLIAM R. HORTON, Secretary**