

## JOURNAL OF THE SENATE

## Fifty-seventh Legislative Assembly

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Bismarck, February 13, 2001

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

The prayer was offered by Senator Watne.

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

A quorum was declared by the President.

## CONSIDERATION OF AMENDMENTS

**SB 2033: SEN. D. MATHERN (Industry, Business and Labor Committee) MOVED** that the amendments on SJ pages 385-388 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

## MOTION

**SEN. CHRISTMANN MOVED** that the rules be suspended, that after action taken on the Sixth order, SB 2033 be placed on the Eleventh order, as amended, for immediate second reading and final passage, and that, after action taken on the Sixth order, the remainder of the bills on that order also be placed on the Eleventh order, as amended, for immediate second reading and final passage, which motion prevailed.

## SECOND READING OF SENATE BILL

**SB 2033:** A BILL for an Act to create and enact a new section to chapter 40-63 of the North Dakota Century Code, relating to renaissance zone tax benefit requirements; to amend and reenact sections 40-63-01, 40-63-02, 40-63-03, 40-63-04, 40-63-05, 40-63-06, 40-63-07, 40-63-09, and 40-63-10 of the North Dakota Century Code, relating to renaissance zones; and to repeal section 40-63-08 of the North Dakota Century Code, relating to renaissance zone contribution use.

## MOTION

**SEN. D. MATHERN MOVED** that Engrossed SB 2033 be amended as follows, which motion prevailed on a voice vote.

Page 3, line 5, replace the second "to" with "of"

Page 6, line 10, after "purchases" insert "or rehabilitates"

Page 7, line 23, after the period insert "The credit may be claimed in the year in which the preservation or renovation is completed."

Renumber accordingly

## 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, 2 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

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

**NAYS:** Cook; Lindaas

**ABSENT AND NOT VOTING:** Traynor

Reengrossed SB 2033 passed and the title was agreed to.

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**CONSIDERATION OF AMENDMENTS**

**SB 2386: SEN. KROEPLIN (Finance and Taxation Committee) MOVED** that the amendments on SJ pages 393-394 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

**SECOND READING OF SENATE BILL**

**SB 2386:** 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 ethanol production agricultural cooperative or limited liability company investment income tax credit; 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 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; Solberg; Stenehjem; Tallackson; Thane; Tollefson; Tomac; Trenbeath; Urlacher; Wanzek; Wardner; Watne

**ABSENT AND NOT VOTING:** Traynor

Engrossed SB 2386 passed and the title was agreed to.

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**CONSIDERATION OF AMENDMENTS**

**SB 2406: SEN. C. NELSON (Judiciary Committee) MOVED** that the amendments on SJ page 396 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

**SECOND READING OF SENATE BILL**

**SB 2406:** A BILL for an Act to create and enact a new subsection to section 39-08-01 of the North Dakota Century Code, relating to inmate placement for driving while under the influence.

**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; Solberg; Stenehjem; Tallackson; Thane; Tollefson; Tomac; Trenbeath; Urlacher; Wanzek; Wardner; Watne

**ABSENT AND NOT VOTING:** Traynor

Engrossed SB 2406 passed and the title was agreed to.

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**CONSIDERATION OF AMENDMENTS**

**SB 2389: SEN. KROEPLIN (Agriculture Committee) MOVED** that the amendments on SJ pages 394-395 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

**SECOND READING OF SENATE BILL**

**SB 2389:** A BILL for an Act to create and enact a new section to chapter 4-10 of the North Dakota Century Code, relating to seed potato inspections; and to amend and reenact section 4-10-06.1 of the North Dakota Century Code, relating to transfers of certified seed potatoes.

**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; Solberg; Stenehjerm; Tallackson; Thane; Tollefson; Tomac; Trenbeath; Urlacher; Wanzek; Wardner; Watne

**ABSENT AND NOT VOTING:** Traynor

Engrossed SB 2389 passed and the title was agreed to.

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#### CONSIDERATION OF AMENDMENTS

**SB 2421: SEN. O'CONNELL (Transportation Committee) MOVED** that the amendments on SJ pages 396-397 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

#### SECOND READING OF SENATE BILL

**SB 2421:** A BILL for an Act to amend and reenact section 2-05-01 of the North Dakota Century Code, relating to the aeronautics commission.

#### 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; Solberg; Stenehjerm; Tallackson; Thane; Tollefson; Tomac; Trenbeath; Urlacher; Wanzek; Wardner; Watne

**ABSENT AND NOT VOTING:** Traynor

Engrossed SB 2421 passed and the title was agreed to.

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#### CONSIDERATION OF AMENDMENTS

**SB 2022: SEN. SOLBERG (Appropriations Committee) MOVED** that the amendments on SJ pages 409-410 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

#### SECOND READING OF SENATE BILL

**SB 2022:** A BILL for an Act to provide an appropriation for defraying the expenses of the information technology department.

#### 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; Solberg; Stenehjerm; Tallackson; Thane; Tollefson; Tomac; Trenbeath; Urlacher; Wanzek; Wardner; Watne

**ABSENT AND NOT VOTING:** Traynor

Engrossed SB 2022 passed and the title was agreed to.

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#### CONSIDERATION OF AMENDMENTS

**SB 2310: SEN. DEVER (Government and Veterans Affairs Committee) MOVED** that the amendments on SJ pages 410-411 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

**SECOND READING OF SENATE BILL**

**SB 2310:** A BILL for an Act to amend and reenact subsection 3 of section 16.1-08.1-02, sections 16.1-09-02, and 16.1-12-02.2 of the North Dakota Century Code, relating to write-in candidates and counting of write-in votes.

**ROLL CALL**

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 12 YEAS, 36 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Dever; Freborg; Kilzer; Krebsbach; Lee; Mutch; Nelson, G.; Nething; Stenehjerm; Tollefson; Wardner; Watne

**NAYS:** Andrist; Bercier; Bowman; Christenson; Christmann; Cook; Erbele; Espegard; Every; Fischer; Flakoll; Grindberg; Heitkamp; Holmberg; Kelsh; Klein; Krauter; Kringstad; Kroeplin; Lindaas; Lyson; Mathern, D.; Mathern, T.; Nelson, C.; Nichols; O'Connell; Polovitz; Robinson; Schobinger; Solberg; Tallackson; Thane; Tomac; Trenbeath; Urlacher; Wanzek

**ABSENT AND NOT VOTING:** Traynor

Engrossed SB 2310 lost.

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**CONSIDERATION OF AMENDMENTS**

**SB 2353: SEN. CHRISTMANN (Natural Resources Committee) MOVED** that the amendments on SJ page 412 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

**SECOND READING OF SENATE BILL**

**SB 2353:** A BILL for an Act to amend and reenact subsection 11 of section 20.1-02-05 of the North Dakota Century Code, relating to hunting by handicapped persons on lands controlled by the board of university and school lands.

**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; Solberg; Stenehjerm; Tallackson; Thane; Tollefson; Tomac; Trenbeath; Urlacher; Wanzek; Wardner; Watne

**ABSENT AND NOT VOTING:** Traynor

Engrossed SB 2353 passed and the title was agreed to.

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**CONSIDERATION OF AMENDMENTS**

**SB 2375: SEN. D. MATHERN (Political Subdivisions Committee) MOVED** that the amendments on SJ page 412 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

**SECOND READING OF SENATE BILL**

**SB 2375:** A BILL for an Act to create and enact a new section to title 48 of the North Dakota Century Code, relating to limitations on governing bodies requiring directed suretyship bonds.

**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; Solberg; Stenehjerm; Tallackson; Thane; Tollefson; Tomac; Trenbeath; Urlacher; Wanzek; Wardner; Watne

**ABSENT AND NOT VOTING:** Traynor

Engrossed SB 2375 passed and the title was agreed to.

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#### CONSIDERATION OF AMENDMENTS

**SB 2448: SEN. STENEHJEM (Finance and Taxation Committee) MOVED** that the amendments on SJ pages 412-413 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

#### SECOND READING OF SENATE BILL

**SB 2448:** A BILL for an Act to provide for a legislative council study of compliance and jurisdictional issues arising under the tobacco, alcohol, and fuels tax laws.

#### ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 37 YEAS, 11 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

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

**NAYS:** Bercier; Christenson; Heitkamp; Kelsh; Krauter; Lindaas; Mathern, D.; Mathern, T.; Nelson, C.; O'Connell; Tomac

**ABSENT AND NOT VOTING:** Traynor

Engrossed SB 2448 passed and the title was agreed to.

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#### SECOND READING OF SENATE BILL

**SB 2043:** A BILL for an Act 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.

#### MOTION

**SEN. WARDNER MOVED** that SB 2043 be amended as follows, which motion prevailed on a voice vote.

Page 6, line 5, after the period insert "Each agency shall notify the department regarding the confidential nature of any information submitted to the department."

Page 6, line 7, remove "Information collected to carry out sections 54-59-09,"

Page 6, line 8, remove "54-59-11, and 54-59-13 is exempt as defined in section 44-04-17.1."

Renumber accordingly

#### 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 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; Solberg; Stenehjerm; Tallackson; Thane; Tollefson; Tomac; Trenbeath; Urlacher; Wanzek; Wardner; Watne

**ABSENT AND NOT VOTING:** Traynor

Engrossed SB 2043 passed and the title was agreed to.

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### SECOND READING OF SENATE BILL

**SB 2109:** A BILL for an Act to create and enact a new section to chapter 36-24 of the North Dakota Century Code, relating to continuing education requirements for meat inspection; to amend and reenact sections 36-24-16, 36-24-19, and 36-24-26 of the North Dakota Century Code, relating to meat inspection; 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 7 YEAS, 41 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Bercier; Every; Heitkamp; Lee; Lindaas; Mathern, T.; Nichols

**NAYS:** Andrist; Bowman; Christenson; Christmann; Cook; Dever; Erbele; Espegard; Fischer; Flakoll; Freborg; Grindberg; Holmberg; Kelsh; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Kroeplin; Lyson; Mathern, D.; Mutch; Nelson, C.; Nelson, G.; Nething; O'Connell; Polovitz; Robinson; Schobinger; Solberg; Stenehjem; Tallackson; Thane; Tollefson; Tomac; Trenbeath; Urlacher; Wanzek; Wardner; Watne

**ABSENT AND NOT VOTING:** Traynor

SB 2109 lost.

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### SECOND READING OF SENATE BILL

**SB 2182:** A BILL for an Act to amend and reenact section 61-04-22 of the North Dakota Century Code, relating to prescriptive water rights.

### 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 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; Solberg; Stenehjem; Tallackson; Thane; Tollefson; Tomac; Trenbeath; Urlacher; Wanzek; Wardner; Watne

**ABSENT AND NOT VOTING:** Traynor

SB 2182 passed and the title was agreed to.

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### SECOND READING OF SENATE BILL

**SB 2198:** A BILL for an Act to create and enact a new subsection to section 54-52-04, a new subsection to section 54-52.1-01, and five new sections to chapter 54-52.1 of the North Dakota Century Code, relating to the expansion of the uniform group insurance program to allow participation by permanent and temporary employees of private sector employers and by any other person who is otherwise without health insurance coverage; to amend and reenact section 54-52.1-02 of the North Dakota Century Code, relating to subgroups under the uniform group insurance program; to provide an appropriation; 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 17 YEAS, 31 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Bercier; Christenson; Every; Heitkamp; Kelsh; Krauter; Kroeplin; Lindaas; Mathern, D.; Mathern, T.; Nelson, C.; Nichols; O'Connell; Polovitz; Robinson; Tallackson; Tomac

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

**ABSENT AND NOT VOTING:** Traynor

SB 2198 lost.

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#### SECOND READING OF SENATE BILL

**SB 2203:** A BILL for an Act to create and enact a new section to chapter 39-04 of the North Dakota Century Code, relating to motor vehicle number plates bearing college or university logos.

#### 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, 36 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Erbele; Flakoll; Holmberg; Krauter; Lee; Mathern, D.; Nichols; Polovitz; Stenehjem; Tallackson; Tomac; Trenbeath

**NAYS:** Andrist; Bercier; Bowman; Christenson; Christmann; Cook; Dever; Espegard; Every; Fischer; Freborg; Grindberg; Heitkamp; Kelsh; Kilzer; Klein; Krebsbach; Kringstad; Kroeplin; Lindaas; Lyson; Mathern, T.; Mutch; Nelson, C.; Nelson, G.; Nething; O'Connell; Robinson; Schobinger; Solberg; Thane; Tollefson; Urlacher; Wanzek; Wardner; Watne

**ABSENT AND NOT VOTING:** Traynor

SB 2203 lost.

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#### SECOND READING OF SENATE BILL

**SB 2207:** A BILL for an Act to create and enact section 47-30.1-21.1 of the North Dakota Century Code, relating to the crediting of dividends, interest, or increments to an owner of unclaimed property; and to amend and reenact subsection 3 of section 47-30.1-24 of the North Dakota Century Code, relating to the payment of unclaimed property claims.

#### ROLL CALL

The question being on the final passage of the bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 47 YEAS, 1 NAY, 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; Polovitz; Robinson; Schobinger; Solberg; Stenehjem; Tallackson; Thane; Tollefson; Tomac; Trenbeath; Urlacher; Wanzek; Wardner; Watne

**NAYS:** O'Connell

**ABSENT AND NOT VOTING:** Traynor

SB 2207 passed and the title was agreed to.

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#### SECOND READING OF SENATE BILL

**SB 2263:** A BILL for an Act to provide for rights of organization and representation of state employees, collective bargaining negotiations between the state of North Dakota and its employees, a state employment relations board, and public employment relations.

**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 16 YEAS, 31 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

**YEAS:** Bercier; Christenson; Cook; Heitkamp; Kelsh; Krauter; Kroeplin; Lindaas; Mathern, D.; Mathern, T.; Nelson, C.; O'Connell; Polovitz; Robinson; Tallackson; Tomac

**NAYS:** Andrist; Bowman; Christmann; Dever; Erbele; Espesgaard; Every; Fischer; Flakoll; Freborg; Grindberg; Holmberg; Kilzer; Klein; Krebsbach; Kringstad; Lee; Lyson; Mutch; Nelson, G.; Nething; Nichols; Schobinger; Solberg; Stenehjem; Thane; Tollefson; Trenbeath; Urlacher; Wanzek; Wardner

**ABSENT AND NOT VOTING:** Traynor; Watne

SB 2263 lost.

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**SECOND READING OF SENATE BILL**

**SB 2266:** A BILL for an Act to amend and reenact subsection 2 of section 47-05-02.1 of the North Dakota Century Code, relating to duration of easements.

**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, 28 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Christenson; Christmann; Cook; Dever; Erbele; Grindberg; Heitkamp; Kelsh; Krauter; Kringstad; Lindaas; Mathern, D.; Mathern, T.; Nichols; Polovitz; Robinson; Solberg; Thane; Tomac; Wanzek

**NAYS:** Andrist; Bercier; Bowman; Espesgaard; Every; Fischer; Flakoll; Freborg; Holmberg; Kilzer; Klein; Krebsbach; Kroeplin; Lee; Lyson; Mutch; Nelson, C.; Nelson, G.; Nething; O'Connell; Schobinger; Stenehjem; Tallackson; Tollefson; Trenbeath; Urlacher; Wardner; Watne

**ABSENT AND NOT VOTING:** Traynor

SB 2266 lost.

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**SECOND READING OF SENATE BILL**

**SB 2289:** A BILL for an Act to create and enact a new subsection to section 39-01-15 of the North Dakota Century Code, relating to parking spaces for mobility-impaired individuals; 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 PASS, 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; Espesgaard; 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; Solberg; Stenehjem; Tallackson; Thane; Tollefson; Tomac; Trenbeath; Urlacher; Wanzek; Wardner; Watne

**ABSENT AND NOT VOTING:** Traynor

SB 2289 passed and the title was agreed to.

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**COMMUNICATION FROM GOVERNOR JOHN HOEVEN**

February 1, 2001

Pursuant to North Dakota Century Code (NDCC) 53-06.1-01.1, I am hereby re-appointing the following to serve on the North Dakota State Gaming Commission:



Mr. James P. Wang, Minnewaukan; effective July 1, 1999, and extending to July 1 2002.

Ms. Sandi Frenzel, Dickinson; effective July 1, 2000, and extending to July 1, 2003.

Mr. Carrol Torgerson, Cooperstown; effective July 1, 2000, and extending to July 1, 2003.

I would appreciate the Senate confirming the re-appointments prior to its adjournment. Thank you for your consideration.

#### REPORT OF PROCEDURAL COMMITTEE

**MR. PRESIDENT:** Your procedural **Committee on Committees (Sen. G. Nelson, Chairman)** respectfully submits the following names for your **Select Committee** to approve the State Gaming Commission nominees: Sen. Grindberg, Chairman, and Sens. Lyson, Stenehjem, T. Mathern, and C. Nelson.

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

#### MOTION

**SEN. CHRISTMANN MOVED** that the Senate resolve itself into a Confirmation Session, which motion prevailed.

#### REPORT OF SELECT COMMITTEE

**MR. PRESIDENT:** Your **Select Committee (Sen. Christmann, Chairman)** appointed to consider the nominations for the State Board of Higher Education, do advise and consent to the nomination of Charles Stroup.

**SEN. CHRISTMANN MOVED** that the report be adopted.

#### ROLL CALL

The question being will the Senate "advise and consent to the nomination of Charles Stroup for the State Board of Higher Education", the roll was called and there were 47 YEAS, 0 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bercier; Bowman; Christenson; Christmann; Cook; Dever; Erbele; Espegard; Every; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Kelsh; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Kroeplin; Lee; Lindaas; Lyson; Mathern, D.; Mathern, T.; Mutch; Nelson, C.; Nelson, G.; Nothing; Nichols; O'Connell; Polovitz; Robinson; Schobinger; Solberg; Stenehjem; Tallackson; Thane; Tollefson; Tomac; Trenbeath; Urlacher; Wanzek; Wardner; Watne

**ABSENT AND NOT VOTING:** Holmberg; Traynor

The Senate advises and consents to the nomination of Charles Stroup for the State Board of Higher Education.

#### REPORT OF SELECT COMMITTEE

**MR. PRESIDENT:** Your **Select Committee (Sen. Christmann, Chairman)** appointed to consider the nominations for the State Board of Higher Education, do advise and consent to the nomination of Dr. Richard Kunkel.

**SEN. CHRISTMANN MOVED** that the report be adopted.

#### ROLL CALL

The question being will the Senate "advise and consent to the nomination of Dr. Richard Kunkel for the State Board of Higher Education", the roll was called and there were 47 YEAS, 0 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bercier; Bowman; Christenson; Christmann; Cook; Dever; Erbele; Espegard; Every; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Kelsh; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Kroeplin; Lee; Lindaas; Lyson; Mathern, D.; Mathern, T.; Mutch; Nelson, C.; Nelson, G.; Nothing; Nichols; O'Connell; Polovitz; Robinson; Schobinger; Solberg; Stenehjem; Tallackson; Thane; Tollefson; Tomac; Trenbeath; Urlacher; Wanzek; Wardner; Watne

**ABSENT AND NOT VOTING:** Holmberg; Traynor

The Senate advises and consents to the nomination of Dr. Richard Kunkel for the State Board of Higher Education.

**MOTION**

**SEN. CHRISTMANN MOVED** that the Confirmation Session be dissolved, which motion prevailed.

**MOTION**

**SEN. CHRISTMANN MOVED** that SB 2317, which is on the Eleventh order, be rereferred to the **Transportation Committee**, which motion prevailed. Pursuant to Sen. Christmann's motion, SB 2317 was rereferred.

**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 2003, SB 2209.

**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 2017, SB 2020, SB 2027, SB 2040, SB 2260, SB 2282, SB 2287, SB 2330.

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

**MR. PRESIDENT:** The House has passed, the emergency clause carried, and your favorable consideration is requested on: HB 1020.

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

**MR. PRESIDENT:** The House has passed and your favorable consideration is requested on: HB 1004, HB 1006, HB 1014, HB 1021, HB 1052, HB 1117, HB 1155, HB 1198, HB 1226, HB 1228, HB 1267, HB 1360, HB 1375, HB 1378, HB 1395, HB 1413.

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

**MR. PRESIDENT:** The Speaker has signed and your signature is respectfully requested on: HB 1092, HB 1180.

**MOTION**

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

**MOTION**

**SEN. CHRISTMANN MOVED** that the Senate be on the Fourth, Fifth, Ninth, and Thirteenth orders of business and at the conclusion of those orders, the Senate stand adjourned until 1:00 p.m., Wednesday, February 14, 2001, which motion prevailed.

**REPORT OF STANDING COMMITTEE**

**SB 2086: Education Committee (Sen. Freborg, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2086 was placed on the Sixth order on the calendar.

Page 1, line 1, after "21-03-07" insert "and subsection 3 of section 57-15-17.1"

Page 1, line 3, after "bonds" insert "and school district remodeling fund mill levies"

Page 1, after line 22, insert:

**"SECTION 2. AMENDMENT.** Subsection 3 of section 57-15-17.1 of the North Dakota Century Code is amended and reenacted as follows:

3. All revenue accruing from up to ~~five~~ ten mills of the fifteen mill levy under this section must be placed in a separate fund known as the required remodeling fund and must be accounted for within the capital projects fund group and disbursements must be made from such funds within this fund group for the purpose of required remodeling, as set forth in subsection 1."

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**SB 2095: Human Services Committee (Sen. Lee, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2095 was placed on the Sixth order on the calendar.

Page 1, line 8, after "the" insert "lower of the previous one year or the", remove the overstrike over "~~average of the~~", remove the overstrike over "~~three years~~", and remove "year"

Page 1, line 9, overstrike "which" and insert immediately thereafter "or the lower of the previous one year or three years of adjusted gross income, less any earned income on the tax return, plus any current earned or unearned income. Adjusted gross income"

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**SB 2166: Education Committee (Sen. Freborg, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2166 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 amend and reenact section 15.1-06-08 of the North Dakota Century Code, relating to the waiver of accreditation rules by the superintendent of public instruction; and to repeal section 15.1-06-05 of the North Dakota Century Code, relating to modification of the school calendar.

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

**SECTION 1. AMENDMENT.** Section 15.1-06-08 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

##### **15.1-06-08. ~~Conditions~~ Rules for school accreditation and approval - Waiver.**

1. A school or school district may apply to the superintendent of public instruction ~~may waive any condition~~ for a waiver of any rule governing the accreditation and approval for a reasonable period of time of schools, provided the waiver encourages:
  - a. Encourages innovation, ~~permits experimentation,~~ and has
  - b. Has the potential to result in an improved program. ~~The superintendent may waive the conditions only with the concurrence of a majority of a waiver committee composed of one member appointed by the North Dakota education association, one member appointed by the North Dakota council of educational leaders, and one member appointed by the North Dakota school boards association educational opportunities or enhanced academic opportunities for the students.~~
2. The initial waiver must be for a specific period of time, but may not exceed one year. A school or a school district for which a waiver has been approved under this section, may apply for one extension of the waiver. The extension may not exceed one year.
3. If the superintendent of public instruction, after receipt and consideration of an application for a waiver of a rule governing the accreditation of schools under this section approves the waiver, the superintendent shall file a report with a committee designated by the legislative council. The report must cite the accreditation rule that was waived, provide a detailed account of the reasons for which the rule was waived, and state the time period for which the rule was waived. If the superintendent of public instruction denies an application for a waiver under this section, the superintendent shall file a notice of denial with the committee designated by the legislative council. If requested by the chairman of the committee, the superintendent shall appear before the committee and respond to questions regarding the approval or denial of any application for a waiver.
4. Any waiver granted by the superintendent of public instruction prior to the effective date of this Act is void as of the effective date of this Act. Any school or school district operating under a waiver granted by the superintendent prior to the effective date of this Act may apply for a new waiver under this Act.
5. Nothing in this section permits the superintendent of public instruction to waive in whole or in part any statute or any accreditation rule that is identical to or similar to any statute enacted by the legislative assembly.

**SECTION 2. REPEAL.** Section 15.1-06-05 of the North Dakota Century Code is repealed."

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**SB 2180: Education Committee (Sen. Freborg, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2180 was placed on the Sixth order on the calendar.

Page 4, line 17, after the underscored period insert:

"1."

Page 4, line 20, after the first "a" insert "retired" and replace "have been receiving a retirement annuity for at least" with ":

- a. Return to teach in a critical shortage geographical area or subject discipline as determined by the education standards and practices board by rule; and
- b. If retired after January 1, 2001, have been receiving a retirement annuity for at least one year. A retired teacher may perform noncontracted substitute teaching duties, but may not engage in full-time or part-time teaching duties during the one-year separation from service.

2."

Page 4, remove lines 21 and 22

Page 4, line 23, remove "teacher may not engage in part-time teaching during the one-year separation from service."

Page 4, line 25, remove ", but the governmental body employing a retired"

Page 4, line 26, remove "teacher under this section must pay the employer assessment required by section 15-39.1-09"

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**SB 2191: Industry, Business and Labor Committee (Sen. Mutch, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2191 was placed on the Sixth order on the calendar.

Page 1, line 2, after "institutions" insert "; to amend and reenact section 6-08.1-01 of the North Dakota Century Code, relating to the definition of a customer and customer information; to provide an effective date; and to declare an emergency"

Page 1, after line 3, insert:

**"SECTION 1. AMENDMENT.** Section 6-08.1-01 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**6-08.1-01. Definitions.** As used in this chapter:

1. "Customer" means, with respect to a financial institution, any person who has transacted or is transacting business with, or has used or is using the services of, individual or authorized representative of an individual to whom a financial institution, or for whom a financial institution has acted provides a product or service for personal, family, or household use, including that of acting as a fiduciary with respect to trust property.
2. "Customer information" means either of the following:

- a. ~~Any original or any copy of any records held by a financial institution pertaining to a customer's relationship with the financial institution.~~
  - b. ~~Any information derived from a record described in this subsection nonpublic personal information maintained by or for a financial institution which is derived from a customer relationship between the financial institution and a customer of the financial institution and is identified with the customer.~~
- 3. "Financial institution" means any organization authorized to do business under state or federal laws relating to financial institutions, including, without limitation, a bank, including the Bank of North Dakota, a savings bank, a trust company, a savings and loan association, or a credit union.
  - 4. "Financial institution regulatory agency" means any of the following:
    - a. The federal deposit insurance corporation.
    - b. The federal savings and loan insurance corporation.
    - c. The national credit union administration.
    - d. The federal reserve board.
    - e. The United States comptroller of the currency.
    - f. The department of banking and financial institutions.
    - g. The federal home loan bank board.
  - 5. "Governmental agency" means any agency or department of this state, or any authorized officer, employee, or agent of an agency or department of this state.
  - 6. "Law enforcement agency" means any agency or department of this state or of any political subdivision of this state authorized by law to enforce the law and to conduct or engage in investigations or prosecutions for violations of law.
  - 7. "Person" means any individual, partnership, corporation, limited liability company, association, trust, or other legal entity."

Page 1, underscore lines 6 through 9

Page 1, after line 9, insert:

**"SECTION 3. EFFECTIVE DATE.** This Act becomes effective on July 1, 2001.

**SECTION 4. EMERGENCY.** This Act is declared to be an emergency measure."

Renumber accordingly

#### **REPORT OF STANDING COMMITTEE**

**SB 2243: Human Services Committee (Sen. Lee, Chairman)** recommends **DO NOT PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2243 was placed on the Eleventh order on the calendar.

#### **REPORT OF STANDING COMMITTEE**

**SB 2322: Judiciary Committee (Sen. Traynor, Chairman)** recommends **DO NOT PASS** (6 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). SB 2322 was placed on the Eleventh order on the calendar.

#### **REPORT OF STANDING COMMITTEE**

**SB 2372: Judiciary Committee (Sen. Traynor, Chairman)** recommends **DO PASS** (5 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2372 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2374: Finance and Taxation Committee (Sen. Urlacher, Chairman)** recommends **DO PASS** (4 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2374 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2380: Human Services Committee (Sen. Lee, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2380 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 establish a tobacco prevention advisory committee; to amend and reenact subsection 1 of section 54-27-25 of the North Dakota Century Code, relating to the tobacco settlement trust fund; to provide an appropriation; and to declare an emergency.

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

**SECTION 1. Definitions.** As used in sections 1 through 9 of this Act, unless the context otherwise requires:

1. "Committee" means the tobacco prevention advisory committee.
2. "Grantee" means a public entity or private nonprofit entity approved by the committee to receive moneys from the fund for qualified tobacco prevention programs.
3. "Master settlement agreement" means the settlement agreement and related documents entered on December 28, 1998, by the state and leading United States tobacco product manufacturers.
4. "Qualified tobacco prevention program" means a program that meets the criteria as set forth in the state plan.
5. "State plan" means the state plan for tobacco prevention adopted pursuant to section 6 of this Act.

**SECTION 2. Tobacco prevention advisory committee.**

1. The tobacco prevention advisory committee is established in the office of the governor to advise and assist the state health officer in the implementation of a statewide, comprehensive tobacco control program. The membership of the committee is:
  - a. The governor or the governor's designee.
  - b. Two legislative members appointed by the chairman of the legislative council.
  - c. The attorney general or the attorney general's designee.
  - d. One individual who represents American Indians, appointed by the governor from a list consisting of a nominee provided by each of the tribal councils in the state.
  - e. One individual who is under age eighteen at the time of nomination, appointed by the governor.
  - f. One individual who represents nongovernmental, voluntary, tobacco control organizations, appointed by the governor.
  - g. One individual who represents the local public health community, appointed by the governor from a list provided by the North Dakota public health association.
  - h. The superintendent of public instruction or the superintendent's designee.

- i. The state health officer or the state health officer's designee, who may be the state tobacco prevention control coordinator employed by the state department of health.
  - j. An academic researcher with expertise in tobacco control and health promotion intervention, appointed by the dean of the university of North Dakota medical school.
  - k. One physician, appointed by the governor.
- 2. The appointed members serve for a term of two years and until a successor is appointed. A vacancy on the committee must be filled in the same manner as the original appointment for the remainder of the unexpired term. All members must be residents of the state.
  - 3. The governor shall convene the committee's first meeting before May 15, 2001.
  - 4. Members of the committee are entitled to be compensated at a rate of sixty-two dollars and fifty cents per day and are allowed the mileage and expenses as provided by law for members of state officers and employees.

**SECTION 3. Affairs and business of committee.** The governor or the governor's designee shall administer, manage, and direct the affairs and business of the committee in accordance with sections 1 through 9 of this Act. The committee may use technical experts and other employees on a temporary basis as it may require. The actual expenses incurred in the performance of these duties must be paid from the fund.

**SECTION 4. State health officer powers.** The state health officer may:

- 1. Accept, hold, and administer any moneys appropriated or distributed to the committee or other money, securities, or other property appropriated, given, or bequeathed to the committee, absolutely or in trust, for the purposes for which the committee is created;
- 2. Distribute the moneys in the fund to entities in accordance with the state plan;
- 3. Contract as necessary or convenient for the exercise of its powers and functions;
- 4. Make bylaws for the management and regulations of its affairs;
- 5. Receive and accept aid, grants, contributions, and cooperation of any kind from any source for the purposes of sections 1 through 9 of this Act subject to the conditions, acceptable to the committee, upon which the aid, grants, contributions, and cooperation may be made;
- 6. Invest its funds as permitted by applicable law; and
- 7. Do any lawful act necessary or appropriate to carry out the powers granted or reasonably implied, including use of any lawful act necessary or appropriate to recover payments wrongfully made from the fund.

**SECTION 5. Tobacco prevention fund.**

- 1. The state tobacco prevention fund is a special fund in the state treasury. The fund consists of moneys received by the state under the master settlement agreement pursuant to section 54-27-25 and all other moneys, including appropriation, gifts, grants, or other funds, designated for the fund. All interest derived from the deposit and investment of moneys in the fund must be credited to the fund.
- 2. All moneys in the fund are subject to legislative appropriation for the purposes described in sections 1 through 9 of this Act.
- 3. Moneys from the fund may not be used to engage in political activity or lobbying including support of or opposition to candidates, ballot questions, referenda, or similar activities.

**SECTION 6. State plan for tobacco prevention and dependency treatment.**

1. Before August 1, 2001, the committee shall propose a state plan for tobacco prevention and dependency treatment. The committee shall publish its proposed state plan and submit its proposed state plan to the governor, the department of human services, the state department of health, and the attorney general. The public, the governor, the named departments, and the attorney general may submit comments to the committee on the proposed state plan before November 1, 2001. Before January 15, 2002, the committee shall adopt and publish a final state plan. For subsequent years, the committee shall set the deadlines for the submission of proposed amendments to the state plan, the submission of comments to the proposed amendments, and the adoption of amendments and publication of the amended state plan; provided, however, that grant award announcements must be made before March first as provided in section 8 of this Act.
2. The committee shall establish and implement a tobacco use prevention and dependence treatment plan that is a sustainable, long-term, comprehensive program that integrates science-based, comprehensive, and effective programs including countermarketing and public education programs, community-based programs, chronic disease programs, treatment of tobacco dependence, school-based programs, enforcement programs, and statewide programs and which includes a mechanism for ongoing monitoring and evaluation of the program. The state plan must build on and may not duplicate current programs. The state plan must set out the criteria by which grant proposals are considered by the committee and must include components of the centers for disease control and prevention's best practices for comprehensive tobacco control programs. The plan must also describe the types of tobacco prevention programs that are eligible for consideration for grants from the fund. The committee shall give priority to programs that:
  - a. Are research-based or based on proven effective strategies;
  - b. Are designed to coordinate with other activities and education messages related to other health activities;
  - c. Utilize and enhance existing prevention and treatment activities and resources; or
  - d. Involve innovative approaches for the prevention of tobacco use.
3. The state plan must provide for an annual statewide assessment of tobacco-related behaviors and attitudes among youth to establish a baseline to measure statewide effects of tobacco use prevention and treatment activities. To the extent feasible, the assessment must be conducted so that the results may be compared to nationwide data. The assessment must be made available to the public, along with the resulting data, excluding respondent identities and respondent-identifiable data, before September first of each year.
4. The state plan must provide that no more than five percent of the fund may be expended on the administrative costs of the committee.

**SECTION 7. Grants for tobacco prevention programs.**

1. The committee shall meet to review applications for grants for tobacco prevention programs. A grant may not be awarded without the approval of the vote of a majority of the committee. To the extent practicable and consistent with the criteria for qualified applicants set forth in the state plan, the committee shall make awards equal to the total amount of funds appropriated for qualified tobacco prevention programs less the administrative costs of the committee.
2. An applicant for a grant for a qualified tobacco prevention program must file an application with the committee no later than April 1, 2002, for the initial year of the program and for subsequent years, no later than November first of the year preceding the fiscal year for which the grant is requested.



3. An applicant that requests funding to initiate, continue, or expand a tobacco prevention program must demonstrate, by means of application, letters of recommendation, and other means as the committee may designate, that the proposed tobacco prevention program for which it seeks funds meets the criteria set forth in the state plan. Previous grant recipients shall include recent evaluations of their programs with their applications. The committee may not award a grant unless it makes a specific finding, as to each applicant, that the program proposed to be funded meets the criteria set forth in the state plan.
4. State and local government departments and agencies are eligible for grants provided pursuant to sections 1 through 9 of this Act.

**SECTION 8. Grants award announcements.** Before May 15, 2002, and before March first of each subsequent year, the committee shall announce the award of grants for the next fiscal year. Any funds appropriated for qualified tobacco prevention and dependency treatment programs not expended in the biennium must be retained in the fund and available for qualified programs in the following biennium without further legislative appropriation.

**SECTION 9. Reports.**

1. As a condition for the receipt of funds under sections 1 through 9 of this Act, a grantee shall agree to file a report with the committee, before September first, after the end of the fiscal year for which the grant was awarded, as to:
  - a. The amount received as a grant and the expenditures made with the proceeds of the grant;
  - b. A description of the program offered and the number of individuals who participated in the program; and
  - c. Specific elements of the program meeting the criteria set forth in the state plan.
2. A grantee failing to timely file the report required under this section is subject to the jurisdiction of the attorney general for repayment of the full amounts of the grants expended.
3. The committee shall review and evaluate the reports of grantees required under this section and file a written report with the budget section of the legislative council before December fifteenth of each year on the status of the fund and the activities of the fund for the fiscal year most recently ended. The report must include a copy of the annual audit, the name of each grantee, and the amount of each grant made, the criteria used to award each grant, and whether the program implemented by each grantee met the criteria. The report is public immediately upon its filing.

**SECTION 10. AMENDMENT.** Subsection 1 of section 54-27-25 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

1. Transfers to a community health trust fund to be administered by the state department of health. ~~The state department of health may use funds as appropriated for community-based public health programs and other public health programs, including programs with emphasis on preventing or reducing tobacco usage in this state.~~ Transfers under this subsection must equal ten percent of total annual transfers from the tobacco settlement trust fund. Of the funds appropriated to the state department of health from the community health trust fund:
  - a. The first one million dollars must be used by the department for public health emergencies and to provide funding for the grant programs established under this subsection, if necessary, based upon the anticipated timing of transfers to be received from the tobacco settlement trust fund.
  - b. One million dollars must be used to provide state aid to local public health units.

- c. An amount not to exceed two million dollars must be used to fund a healthy schools grant program that provides grants to schools for preventive health programs.
- d. An amount not to exceed two million dollars must be used to fund a healthy communities grant program. The eligibility criteria for the program must include a one hundred percent matching funds requirement and must provide that grant eligibility is based upon a community's effectiveness in enforcing state and local tobacco seller and use laws and ordinances.
- e. An amount not to exceed seven hundred fifty thousand dollars must be used to fund a statewide tobacco countermarketing media program.
- f. An amount not to exceed two hundred fifty thousand dollars must be used to provide antitobacco materials and resources to the public.
- g. Five hundred thousand dollars must be used to fund programs of the Fargo community health center.

**SECTION 11. APPROPRIATION.** There is appropriated out of any moneys in the community health trust fund, not otherwise appropriated, and from special funds derived from federal funds and from other income, the sum of \$7,600,000, or so much of the sum as may be necessary, to the state department of health for the purpose of defraying the costs of implementing this Act, for the period beginning on the effective date of this Act, and ending June 30, 2003.

**SECTION 12. EMERGENCY.** This Act is declared to be an emergency measure."

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**SB 2398: Industry, Business and Labor Committee (Sen. Mutch, Chairman)** recommends **DO NOT PASS** (5 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2398 was placed on the Eleventh order on the calendar.

#### REPORT OF STANDING COMMITTEE

**SB 2399: Human Services Committee (Sen. Lee, Chairman)** recommends **DO NOT PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2399 was placed on the Eleventh order on the calendar.

#### REPORT OF STANDING COMMITTEE

**SB 2417: Human Services Committee (Sen. Lee, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (4 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2417 was placed on the Sixth order on the calendar.

Page 1, line 2, after "care" insert "improvement"

Page 1, line 7, after "**care**" insert "**improvement**" and replace "children's services coordinating" with "children and family services division of the department of human services"

Page 1, remove line 8

Page 1, line 9, remove "collaboration with the state's child care resource and referral agencies,"

Page 1, line 10, after "care" insert "improvement" and replace "committee" with "early childhood services administrator"

Page 1, line 11, replace "review" with "improvement grant" and replace "under" with "to evaluate and monitor the progress of"

Page 1, line 12, replace "review" with "improvement grant"

Page 1, line 19, replace "be used for awarding grants and an" with "use the children's services coordinating committee's system for distributing local grant money. An"

Page 1, line 22, replace "excluding" with "including"

Page 2, line 7, replace "Provide" with "Expand or improve the quality of" and replace "services" with "facilities"

Page 2, line 8, replace "special funds derived from" with "the federal child care and development fund allocations for fiscal year 2001 and fiscal year 2002"

Page 2, line 9, remove "federal funds and other income"

Page 2, line 10, replace "children's services coordinating committee" with "department of human services"

Page 2, line 11, after "care" insert "improvement"

Page 2, line 12, after the period insert "The appropriated funds may not supplant, replace, or reduce any currently funded programs."

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**SB 2430: Education Committee (Sen. Freborg, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2430 was placed on the Sixth order on the calendar.

Page 1, line 3, after "districts" insert "; to provide an effective date; and to declare an emergency"

Page 1, line 10, remove the overstrike over "~~ten~~" and remove "fifteen"

Page 1, line 11, overstrike "July fifteenth,", overstrike the third comma and insert immediately thereafter "and", and overstrike ", and"

Page 1, line 12, overstrike "October first" and after the period insert "The superintendent shall pay each school district twenty percent of that amount, within the limits of legislative appropriation, on or before October first of each year."

Page 1, line 14, remove the overstrike over "~~On or before November first,~~"

Page 1, remove the overstrike over lines 15 and 16

Page 1, line 17, after "~~fifty~~" insert "sixty" and remove the overstrike over "~~percent of the sum found to be due under this chapter.~~"

Page 2, line 4, remove the overstrike over "~~ten~~" and remove "fifteen"

Page 2, line 6, overstrike "July fifteenth,", overstrike the third comma and insert immediately thereafter "and", and overstrike ", and October"

Page 2, line 7, overstrike "first" and after the period insert "The superintendent shall pay each school district twenty percent of that amount, within the limits of legislative appropriation, on or before October first of each year."

Page 2, line 11, remove the overstrike over "~~On or before November first, the superintendent of public instruction shall pay to~~"

Page 2, remove the overstrike over line 12

Page 2, line 13, remove the overstrike over "~~addition to the above payments, constitutes~~", after "~~fifty~~" insert "sixty", and remove the overstrike over "~~percent of the sum due under this~~"

Page 2, remove the overstrike over line 14

Page 2, line 15, remove the overstrike over "~~5-~~"

Page 2, line 18, remove the overstrike over "~~6-~~" and remove "5-"

Page 2, after line 20, insert:

**"SECTION 3. EFFECTIVE DATE.** This Act becomes effective on July 1, 2001.

**SECTION 4. EMERGENCY.** This Act is declared to be an emergency measure."

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**SB 2439: Judiciary Committee (Sen. Trenbeath, Chairman)** recommends **DO NOT PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2439 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2442: Judiciary Committee (Sen. Traynor, Chairman)** recommends **DO NOT PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2442 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SCR 4024: Industry, Business and Labor Committee (Sen. Mutch, Chairman)** recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SCR 4024 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SCR 4028: Judiciary Committee (Sen. Traynor, Chairman)** recommends **DO PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SCR 4028 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1080: Industry, Business and Labor Committee (Sen. Mutch, Chairman)** recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1080 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1081: Industry, Business and Labor Committee (Sen. Mutch, Chairman)** recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1081 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1082, as engrossed: Industry, Business and Labor Committee (Sen. Mutch, Chairman)** recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1082 was placed on the Fourteenth order on the calendar.

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

**WILLIAM R. HORTON, Secretary**