JOURNAL OF THE SENATE

Fifty-eighth Legislative Assembly

* * * * *

Bismarck, January 31, 2003

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

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

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

A quorum was declared by the President.

MOTION

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

CONSIDERATION OF AMENDMENTS

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

SECOND READING OF SENATE BILL

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

ROLL CALL

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

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

ABSENT AND NOT VOTING: Tallackson

Engrossed SB 2303 passed and the title was agreed to.

CONSIDERATION OF AMENDMENTS

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

SECOND READING OF SENATE BILL

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

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 46 YEAS, 0 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

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

ABSENT AND NOT VOTING: Tallackson

Engrossed SB 2115 passed and the title was agreed to.

SECOND READING OF SENATE BILL

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

ROLL CALL

The question being on the final passage of the bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 46 YEAS, 0 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

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

ABSENT AND NOT VOTING: Tallackson

SB 2253 passed and the title was agreed to.

SECOND READING OF SENATE BILL

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

ROLL CALL

The question being on the final passage of the bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 46 YEAS, 0 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

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

ABSENT AND NOT VOTING: Tallackson

SB 2301 passed and the title was agreed to.

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY) MR. SPEAKER: The Senate has passed and your favorable consideration is requested

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

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY) MR. SPEAKER: The Senate has passed, the emergency clause carried, and your favorable consideration is requested on: SB 2211.

MESSAGE TO THE SENATE FROM THE HOUSE (BRADLEY C. FAY, CHIEF CLERK) MR. PRESIDENT: The House has passed and your favorable consideration is requested on: HB 1063, HB 1090, HB 1101, HB 1135, HB 1168, HB 1178, HB 1184, HB 1185, HB 1210, HB 1212, HB 1230, HB 1236, HB 1297.

MESSAGE TO THE SENATE FROM THE HOUSE (BRADLEY C. FAY, CHIEF CLERK) MR. PRESIDENT: The House has passed, the emergency clause carried, and your favorable consideration is requested on: HB 1115, HB 1149, HB 1163, HB 1269.

MOTION

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

MOTION

SEN. CHRISTMANN MOVED that the Senate be on the Fifth, Ninth, and Thirteenth orders of business and at the conclusion of those orders, the Senate stand adjourned until 1:00 p.m., Monday, February 3, 2003, which motion prevailed.

REPORT OF STANDING COMMITTEE

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

REPORT OF STANDING COMMITTEE

SB 2130: Judiciary Committee (Sen. Traynor, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2130 was placed on the Sixth order on the calendar.

Page 2, remove lines 3 and 4

Renumber accordingly

REPORT OF STANDING COMMITTEE

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

REPORT OF STANDING COMMITTEE

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

REPORT OF STANDING COMMITTEE

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

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

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

Renumber accordingly

REPORT OF STANDING COMMITTEE

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

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

Renumber accordingly

REPORT OF STANDING COMMITTEE

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

REPORT OF STANDING COMMITTEE

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

REPORT OF STANDING COMMITTEE

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

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

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

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

Page 1, after line 5, insert:

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

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

- Page 2, line 8, replace the second "the" with "a controlled substance, chemical substance, or drug paraphernalia as prohibited by section 19-03.1-22.2."
- Page 2, remove lines 9 and 10
- Page 2, line 20, overstrike "**and x-rays**" and insert immediately thereafter "<u>- X-rays Medical tests</u>"
- Page 2, line 22, overstrike the second "a"
- Page 2, line 23, overstrike "radiological examination" and replace "or toxicology or laboratory testing" with "imaging studies, laboratory tests, colposcopies, and other medical tests"
- Page 2, line 24, after "photographs" insert "and other visual images"
- Page 2, line 26, remove ", toxicology or laboratory"
- Page 2, line 27, remove "reports," and overstrike "x-rays taken" and insert immediately thereafter "visual images"
- Page 2, line 29, after the period insert "Imaging studies or copies of the studies and copies of results of other tests conducted under this section must be provided to the department or the department's designee upon request.

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

Renumber accordingly

REPORT OF STANDING COMMITTEE

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

REPORT OF STANDING COMMITTEE

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

REPORT OF STANDING COMMITTEE

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

REPORT OF STANDING COMMITTEE

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

REPORT OF STANDING COMMITTEE

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

REPORT OF STANDING COMMITTEE

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

REPORT OF STANDING COMMITTEE

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

REPORT OF STANDING COMMITTEE

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

REPORT OF STANDING COMMITTEE

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

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

WILLIAM R. HORTON, Secretary