

## JOURNAL OF THE SENATE - SPECIAL SESSION

## Fifty-eighth Legislative Assembly

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Bismarck, May 7, 2003

The Senate convened at 9:10 a.m., with President Dalrymple presiding.

The prayer was offered by Senator Brown.

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

A quorum was declared by the President.

## CONSIDERATION OF AMENDMENTS

**HB 1505, as engrossed: SEN. SCHOBINGER (Appropriations Committee) MOVED** that the amendments on SJ page 11 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

## SECOND READING OF HOUSE BILL

**HB 1505:** A BILL for an Act to provide an appropriation for defraying the expenses of the information technology department, the judicial branch, and the legislative council; to authorize the industrial commission to issue and sell evidences of indebtedness for connectND; to provide for the purchase of information technology equipment and software; to provide for the transfer of state agency information technology employees; to provide for reports to the budget section; to provide for a legislative council study; to create and enact a new section to chapter 54-10, a new section to chapter 54-35, two new sections to chapter 54-59, and a new subsection to section 54-59-05 of the North Dakota Century Code, relating to information technology responsibilities of the state auditor, information technology committee responsibilities, information technology services, and information technology department powers and duties; to amend and reenact sections 54-59-02, 54-59-05, and 54-59-09 of the North Dakota Century Code, relating to responsibilities of the information technology department and information technology standards; to repeal section 54-59-13 of the North Dakota Century Code, relating to information technology reviews; 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 31 YEAS, 15 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bowman; Brown; Christmann; Cook; Erbele; Espegard; Fischer; Flakoll; Freborg; Grindberg; Holmberg; Kilzer; Klein; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lyson; Mutch; Nething; Polovitz; Schobinger; Stenehjerm; Syverson; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

**NAYS:** Bercier; Christenson; Dever; Every; Fairfield; Heitkamp; Krauter; Lindaas; Mathern; Nelson; Nichols; O'Connell; Robinson; Seymour; Taylor

**ABSENT AND NOT VOTING:** Tallackson

Engrossed HB 1505, as amended, passed and the title was agreed to.

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## SECOND READING OF HOUSE BILL

**HB 1506:** A BILL for an Act to provide an appropriation for defraying the expenses of the department of corrections and rehabilitation; to create and enact a new section to chapter 12-44.1 of the North Dakota Century Code, relating to the incarceration of female inmates in grade one correctional facilities; to provide a statement of legislative intent; to provide for a legislative council study; to provide an exemption to chapters 48-01.1 and 54-44.7 of the North Dakota Century Code, relating to public improvement contract bids and architect, engineer, and lands surveying services; to provide for a performance audit of the department of corrections and rehabilitation; to provide an effective date; to provide an expiration date; and to declare an emergency.

**ROLL CALL**

The question being on the final passage of the bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 33 YEAS, 13 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bowman; Brown; Christmann; Cook; Dever; Erbele; Espegard; Fischer; Flakoll; Freborg; Grindberg; Holmberg; Kilzer; Klein; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lyson; Mutch; Nething; Nichols; Schobinger; Seymour; Stenehjem; Syverson; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

**NAYS:** Bercier; Christenson; Every; Fairfield; Heitkamp; Krauter; Lindaas; Mathern; Nelson; O'Connell; Polovitz; Robinson; Taylor

**ABSENT AND NOT VOTING:** Tallackson

HB 1506 passed, the title was agreed to, and the emergency clause was declared carried.

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**REQUEST**

**SEN. CHRISTMANN REQUESTED** that the remarks of Sen. Kringstad regarding the emergency commission be printed in the Journal, which request was granted.

**REMARKS OF SENATOR KRINGSTAD REGARDING THE EMERGENCY COMMISSION**

As in many budgets, the appropriations level in HB 1506 reflects estimates projected over the next 26 months. According to the provisions of North Dakota Century Code 54-16-04, the department retains the right, as do all agencies, to approach the emergency commission during the biennium to resolve any differences between projections and reality.

**SECOND READING OF HOUSE BILL**

**HB 1507:** A BILL for an Act to amend and reenact section 54-03-20 of the North Dakota Century Code, relating to compensation and expense reimbursement of members of the legislative assembly; to provide an effective date; and to provide for retroactive application.

**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 31 YEAS, 15 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Bowman; Brown; Christmann; Cook; Dever; Erbele; Espegard; Fischer; Flakoll; Freborg; Grindberg; Holmberg; Kilzer; Klein; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lyson; Mutch; Nething; Schobinger; Stenehjem; Syverson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

**NAYS:** Andrist; Bercier; Christenson; Every; Fairfield; Heitkamp; Krauter; Lindaas; Mathern; Nelson; Nichols; O'Connell; Polovitz; Robinson; Seymour

**ABSENT AND NOT VOTING:** Tallackson

Engrossed HB 1507 passed and the title was agreed to.

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**MESSAGE TO THE HOUSE FROM THE SENATE (TIMOTHY W. WOOD, SECRETARY)**

**MR. SPEAKER:** The Senate has amended and subsequently passed: HB 1505.

**MESSAGE TO THE HOUSE FROM THE SENATE (TIMOTHY W. WOOD, SECRETARY)**

**MR. SPEAKER:** The Senate has passed, the emergency clause carried, unchanged: HB 1506.

**MESSAGE TO THE HOUSE FROM THE SENATE (TIMOTHY W. WOOD, SECRETARY)**

**MR. SPEAKER:** The Senate has passed unchanged: HB 1507.

**MESSAGE TO THE SENATE FROM THE HOUSE (BRADLEY C. FAY, CHIEF CLERK)**

**MR. PRESIDENT:** The House has passed unchanged: SB 2423.

**MOTION**

**SEN. CHRISTMANN MOVED** that the Senate stand in recess until 11:00 a.m., which motion prevailed.

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

**MOTION**

**SEN. CHRISTMANN MOVED** that the Senate stand in recess until 12:00 p.m., which motion prevailed.

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

**MESSAGE TO THE SENATE FROM THE HOUSE (BRADLEY C. FAY, CHIEF CLERK)**

**MR. PRESIDENT:** The House has amended and subsequently passed: SB 2421, SB 2422.

**HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2421**

Page 32, line 23, after "15.1-27-04" insert "and tuition apportionment payments under section 15.1-28-03"

Page 32, remove lines 26 through 28

Page 32, line 29, replace "3." with "2."

Page 32, line 30, after "15.1-27-04" insert "and tuition apportionment payments under section 15.1-28-03"

Page 33, line 1, replace "4." with "3."

Page 33, replace lines 4 through 12 with:

- "4. a. The provisions of this section do not apply to a school district if the board of the school district, after a public hearing at which public testimony and documentary evidence are accepted, determines in its discretion and by an affirmative vote of two-thirds of its members that complying with the provisions of subsection 1 would place the school district in the position of having insufficient fiscal resources to meet its other obligations.
- b. Within ten days of the vote required by subdivision a, the board shall notify the superintendent of public instruction of its action and shall file a report detailing the grounds for its determination and action.
- c. The superintendent of public instruction shall report all notices received under this subsection to an interim committee designated by the legislative council."

Renumber accordingly

**HOUSE AMENDMENTS TO SENATE BILL NO. 2422**

Page 1, line 3, after "reenact" insert "subdivision a of subsection 1 of section 10-19.1-63," and after "54-16-00.1" insert a comma

Page 1, line 5, after "to" insert "consideration for issuance of shares of stock and"

Page 1, after line 8, insert:

**"SECTION 1. AMENDMENT.** Subdivision a of subsection 1 of section 10-19.1-63 of the North Dakota Century Code as amended in section 9 of House Bill No. 1362, as approved by the fifty-eighth legislative assembly, is amended and reenacted as follows:

- a. ~~Shares may be issued for any consideration, including, without limitation:~~
  - (1) ~~Money or other tangible or intangible property received by the corporation or to be received by the corporation under a written agreement, or services rendered to the corporation or to be rendered to the corporation, as authorized by resolution approved by the affirmative vote of the directors required by section 10-19.1-46; or~~
  - (2) ~~If provided for in the articles, approved by the affirmative vote of the shareholders required by section 10-19.1-74, establishing a~~

~~price in money or other consideration, or a minimum price, or a general formula or method by which the price will be determined.~~

The consideration for the issuance of shares may be paid, in whole or in part, in money; in other property, tangible or intangible; or in labor or services actually performed for the corporation. When payment of the consideration for which shares are to be issued is received by the corporation, the shares are considered fully paid and nonassessable. Neither promissory notes nor future services constitute payment or part payment for shares of a corporation."

Renumber accordingly

#### CONSIDERATION OF MESSAGE FROM THE HOUSE

**SEN. FREBORG MOVED** that the Senate do concur in the House amendments to Engrossed SB 2421, which motion prevailed on a voice vote.

Engrossed SB 2421, as amended, was placed on the Eleventh order of business.

#### SECOND READING OF SENATE BILL

**SB 2421:** A BILL for an Act to create and enact four new sections to chapter 15.1-07, a new section to chapter 15.1-12, and a new section to chapter 15.1-27 of the North Dakota Century Code, relating to school district plans, reorganizations, ending balances, and joint powers agreements; to amend and reenact subsection 5 of section 15.1-09-36, section 15.1-21-02, subsection 6 of section 15.1-27-01, sections 15.1-27-04, 15.1-27-05, 15.1-27-06, and 15.1-27-07, subsection 1 of section 15.1-27-10, section 15.1-27-11, subsection 4 of section 15.1-27-19, subsection 4 of section 15.1-27-21, sections 15.1-27-34, 15.1-27-37, 15.1-27-39, and 15.1-29-01, subsection 4 of section 15.1-29-06, sections 15.1-29-13 and 15.1-29-14, subsection 1 of section 15.1-30-01, section 15.1-30-05, subsection 2 of section 15.1-30-15, and sections 15.1-31-05, 15.1-31-06, and 15.1-32-16 of the North Dakota Century Code, relating to per student payments, weighting factors, transportation aid, teacher compensation, teacher compensation reimbursement, and high school units; to repeal sections 15.1-27-26, 15.1-27-27, 15.1-27-28, 15.1-27-29, 15.1-27-30, and 15.1-27-31 of the North Dakota Century Code, relating to state transportation aid payments; to provide for the distribution of transportation grants; to provide for a legislative council study; to provide for data envelopment analysis completion; to provide for No Child Left Behind Act of 2001 cost estimates; to provide for teacher compensation efforts; to provide for contingent payments; 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 28 YEAS, 17 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Brown; Christmann; Cook; Dever; Espgaard; Fischer; Flakoll; Freborg; Grindberg; Holmberg; Kilzer; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lyson; Mutch; Nething; Seymour; Stenehjelm; Syverson; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

**NAYS:** Bercier; Bowman; Christenson; Erbele; Every; Fairfield; Heitkamp; Klein; Krauter; Lindaas; Mathern; Nelson; Nichols; O'Connell; Polovitz; Robinson; Taylor

**ABSENT AND NOT VOTING:** Schobinger; Tallackson

Reengrossed SB 2421 passed and the title was agreed to.

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#### CONSIDERATION OF MESSAGE FROM THE HOUSE

**SEN. HOLMBERG MOVED** that the Senate do concur in the House amendments to SB 2422, which motion prevailed on a voice vote.

SB 2422, as amended, was placed on the Eleventh order of business.

#### SECOND READING OF SENATE BILL

**SB 2422:** A BILL for an Act to create and enact a new section to chapter 54-16 of the North Dakota Century Code, relating to the presentation of emergency request petitions to the emergency commission; to amend and reenact subdivision a of subsection 1 of section 10-19.1-63, subsection 1 of section 54-16-00.1, and sections 54-16-03, 54-16-04,

54-16-04.1, 54-16-04.2, 54-16-09, and 54-16-11.1 of the North Dakota Century Code, relating to consideration for issuance of shares of stock and procedures employed by the emergency commission and approvals by the budget section; to repeal sections 54-16-10 and 54-16-11 of the North Dakota Century Code, relating to departmental emergency funds; 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 45 YEAS, 0 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bercier; Bowman; Brown; Christenson; Christmann; Cook; Dever; Erbele; Espgaard; 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; Seymour; Stenehjerm; Syverson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

**ABSENT AND NOT VOTING:** Schobinger; Tallackson

Engrossed SB 2422 passed and the title was agreed to.

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#### MESSAGE TO THE HOUSE FROM THE SENATE (TIMOTHY W. WOOD, SECRETARY)

**MR. SPEAKER:** The Senate has concurred in the House amendments and subsequently passed: SB 2421 and SB 2422.

#### MOTION

**SEN. STENEHJEM REQUESTED** that the Senate stand at ease pending a call of the chair, which request was granted.

**THE SENATE RECONVENED**, with President Dalrymple presiding.

#### MESSAGE TO THE SENATE FROM THE HOUSE (BRADLEY C. FAY, CHIEF CLERK)

**MR. PRESIDENT:** The House has concurred in the Senate amendments and subsequently passed: HB 1505.

#### MOTION

**SEN. CHRISTMANN MOVED** that the President appointed a committee of three to notify the House that the Senate is about to adjourn subject to reconvening May 19, 2003, which motion prevailed.

**THE PRESIDENT APPOINTED** as such committee: Sens. Wardner, Flakoll, and Fairfield.

#### REMARKS OF MAJORITY LEADER STENEHJEM

When we left here almost two weeks ago, I reminded everyone of what a great honor it is to serve the people of North Dakota in this legislative body. I said that we were all a part of history. Little did I know at the time, this chapter was not completely written.

We have walked down another path on the well traveled road of democracy. Although we are the first to travel down this particular path, we need to recognize that this path was cleared when our system of government was established. This session, although memorable, is just another part of the process.

We have come together again in this chamber not to find a quick solution, a silver bullet, or an easy way out. We have gathered, as the people have entrusted us to do, to set sound policy and put together a fiscally responsible budget that weighs the concerns of all citizens. We have accomplished this, and now it is time to go.

#### REQUEST

**SEN. WARDNER REQUESTED** that the committee appointed to notify the House that the Senate "is about to adjourn subject to reconvening May 19, 2003" be discharged, as it had completed its task, which request was granted.

#### MOTION

**SEN. STENEHJEM MOVED** that the Senate be on the Fourth, Twelfth, Fifteenth, and Sixteenth orders of business; that at the conclusion of those orders, the Senate stand adjourned subject to reconvening at 1:00 p.m. on Monday, May 19, 2003, or on a later date as determined by the Legislative Council on May 16, 2003, for reconsideration of any item or bill vetoed by the Governor; th at the first three calendar days, excepting Saturday and Sunday, after delivery of bills to the Governor are deemed legislative days for purposes of Article V, Section 9, of the

Constitution of North Dakota; but that if the Legislative Council issues a notice not to reconvene after passage of this motion, this adjournment be deemed an adjournment sine die for all purposes. The motion prevailed.

**MESSAGE TO THE HOUSE FROM THE SENATE (TIMOTHY W. WOOD, SECRETARY)**

**MR. SPEAKER:** The President has signed and your signature is respectfully requested on: SB 2421, SB 2422, SB 2423.

**MESSAGE TO THE SENATE FROM THE HOUSE (BRADLEY C. FAY, CHIEF CLERK)**

**MR. PRESIDENT:** The Speaker has signed and your signature is respectfully requested on: HB 1505, HB 1506, HB 1507.

**MESSAGE TO THE HOUSE FROM THE SENATE (TIMOTHY W. WOOD, SECRETARY)**

**MR. SPEAKER:** The President has signed: HB 1505, HB 1506, HB 1507.

**MESSAGE TO THE SENATE FROM THE HOUSE (BRADLEY C. FAY, CHIEF CLERK)**

**MR. PRESIDENT:** The Speaker has signed: SB 2421, SB 2422, SB 2423.

**DELIVERY OF ENROLLED BILLS AND RESOLUTIONS**

The following bills were delivered to the Governor for approval on May 7, 2003: SB 2421, SB 2422, SB 2423.

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

**Timothy W. Wood, Secretary**