

## JOURNAL OF THE HOUSE

## Fifty-ninth Legislative Assembly

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Bismarck, February 25, 2005

The House convened at 12:00 p.m., with Speaker Klein presiding.

The prayer was offered by Pastor Carl Lindemann, Our Savior's Evangelical Lutheran Church, Bismarck.

The roll was called and all members were present except Representatives Brandenburg, Glassheim, Hawken, Kasper, R. Kelsch, Kerzman, and Weisz.

A quorum was declared by the Speaker.

## CORRECTION AND REVISION OF THE JOURNAL

**MR. SPEAKER:** Your **Committee on Correction and Revision of the Journal (Rep. Kretschmar, Chairman)** has carefully examined the Journal of the thirty second Day and recommends that it be corrected as follows and when so corrected, recommends that it be approved:

On page 772, after line 31 insert the following:

**"YEAS:** Bellew; Belter; Berg; Boehning; Brandenburg; Brusegaard; Carlisle; Carlson; Clark; Damschen; DeKrey; Delzer; Devlin; Dietrich; Dosch; Drovdal; Froseth; Galvin; Glassheim; Grande; Haas; Headland; Herbel; Horter; Iverson; Johnson, D.; Johnson, N.; Kasper; Keiser; Kelsch, R.; Kempenich; Kingsbury; Klemin; Koppelman; Kreidt; Kretschmar; Martinson; Meier, L.; Monson; Nelson; Norland; Nottestad; Owens; Pietsch; Pollert; Porter; Price; Rennerfeldt; Ruby; Sitte; Skarphol; Svedjan; Thoreson; Timm; Uglem; Vigesaa; Wald; Wall; Weiler; Weisz; Wieland; Wrangham; Speaker Klein

**NAYS:** Aarsvold; Amerman; Boe; Boucher; Conrad; Delmore; Ekstrom; Gulleon; Hunskor; Kaldor; Kelsh, S.; Kerzman; Kroeber; Metcalf; Meyer, S.; Mueller; Onstad; Potter; Sandvig; Schmidt; Solberg; Thorpe; Williams; Zaiser

**ABSENT AND NOT VOTING:** Bernstein; Charging; Froelich; Hanson; Hawken; Maragos; Nicholas

HB 1015, as amended, passed, the title was agreed to, and the emergency clause was declared carried.

**REP. KRETSCHMAR MOVED** that the report be adopted, which motion prevailed.

## MOTION

**REP. MONSON MOVED** that SB 2044, which is on the Fourteenth order, be rereferred to the **Appropriations Committee**, which motion prevailed. Pursuant to Rep. Monson's motion, SB 2044 was rereferred.

## MOTION

**REP. MONSON MOVED** that SB 2146, which is on the Fourteenth order, be rereferred to the **Appropriations Committee**, which motion prevailed. Pursuant to Rep. Monson's motion, SB 2146 was rereferred.

## MOTION

**REP. MONSON MOVED** that SB 2076, which is on the Fourteenth order, be rereferred to the **Education Committee**, which motion prevailed. Pursuant to Rep. Monson's motion, SB 2076 was rereferred.

## SECOND READING OF SENATE BILL

**SB 2142:** A BILL for an Act to amend and reenact sections 11-15-07, 11-15-08, 11-15-09, and 23-15-04 of the North Dakota Century Code, relating to fees and commissions collected by sheriffs.

**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 81 YEAS, 8 NAYS, 0 EXCUSED, 5 ABSENT AND NOT VOTING.

**YEAS:** Aarsvold; Amerman; Bellew; Belter; Berg; Bernstein; Boe; Boehning; Boucher; Brusegaard; Carlisle; Carlson; Charging; Clark; Conrad; Damschen; DeKrey; Delmore; Devlin; Dietrich; Dosch; Drovdal; Ekstrom; Froelich; Galvin; Glassheim; Grande; Gulleon; Haas; Hanson; Headland; Herbel; Horter; Hunskor; Iverson; Johnson, D.; Johnson, N.; Kaldor; Kasper; Keiser; Kelsh, S.; Kempenich; Kingsbury; Klemin; Koppelman; Kreidt; Kretschmar; Kroeber; Maragos; Martinson; Meier, L.; Metcalf; Meyer, S.; Monson; Mueller; Nelson; Nicholas; Norland; Nottestad; Onstad; Owens; Pietsch; Porter; Potter; Price; Rennerfeldt; Ruby; Sandvig; Schmidt; Sitte; Solberg; Svedjan; Thoreson; Uglem; Vigasaa; Wald; Wall; Wieland; Williams; Zaiser; Speaker Klein

**NAYS:** Delzer; Froseth; Pollert; Skarphol; Thorpe; Timm; Weiler; Wrangham

**ABSENT AND NOT VOTING:** Brandenburg; Hawken; Kelsch, R.; Kerzman; Weisz

SB 2142 passed and the title was agreed to.

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**SECOND READING OF SENATE BILL**

**SB 2173:** A BILL for an Act to amend and reenact section 11-33-05 of the North Dakota Century Code, relating to compensation of county planning commission members.

**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 88 YEAS, 1 NAY, 0 EXCUSED, 5 ABSENT AND NOT VOTING.

**YEAS:** Aarsvold; Amerman; Bellew; Belter; Berg; Bernstein; Boe; Boehning; Boucher; Brusegaard; Carlisle; Carlson; Charging; Clark; Conrad; Damschen; DeKrey; Delmore; Delzer; Devlin; Dietrich; Dosch; Ekstrom; Froelich; Froseth; Galvin; Glassheim; Grande; Gulleon; Haas; Hanson; Headland; Herbel; Horter; Hunskor; Iverson; Johnson, D.; Johnson, N.; Kaldor; Kasper; Keiser; Kelsh, S.; Kempenich; Kingsbury; Klemin; Koppelman; Kreidt; Kretschmar; Kroeber; Maragos; Martinson; Meier, L.; Metcalf; Meyer, S.; Monson; Mueller; Nelson; Nicholas; Norland; Nottestad; Onstad; Owens; Pietsch; Pollert; Porter; Potter; Price; Rennerfeldt; Ruby; Sandvig; Schmidt; Sitte; Skarphol; Solberg; Svedjan; Thoreson; Thorpe; Timm; Uglem; Vigasaa; Wald; Wall; Weiler; Wieland; Williams; Wrangham; Zaiser; Speaker Klein

**NAYS:** Drovdal

**ABSENT AND NOT VOTING:** Brandenburg; Hawken; Kelsch, R.; Kerzman; Weisz

SB 2173 passed and the title was agreed to.

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**SECOND READING OF SENATE BILL**

**SB 2095:** A BILL for an Act to amend and reenact section 15-08-18.1 of the North Dakota Century Code, relating to notice to county auditors when trust fund property is sold by contract.

**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 87 YEAS, 2 NAYS, 0 EXCUSED, 5 ABSENT AND NOT VOTING.

**YEAS:** Aarsvold; Amerman; Bellew; Belter; Berg; Bernstein; Boe; Boehning; Boucher; Brusegaard; Carlisle; Carlson; Charging; Clark; Conrad; Damschen; DeKrey; Delmore; Devlin; Dietrich; Dosch; Drovdal; Ekstrom; Froelich; Froseth; Galvin; Glassheim; Grande; Gulleon; Haas; Hanson; Headland; Herbel; Horter; Hunskor; Iverson; Johnson, D.; Johnson, N.; Kaldor; Kasper; Keiser; Kelsh, S.; Kingsbury; Klemin; Koppelman; Kreidt; Kretschmar; Kroeber; Maragos; Martinson; Meier, L.; Metcalf; Meyer, S.; Monson; Mueller; Nelson; Nicholas; Norland; Nottestad; Onstad; Owens; Pietsch; Pollert; Porter; Potter; Price; Rennerfeldt; Ruby; Sandvig; Schmidt; Sitte;

Skarphol; Solberg; Svedjan; Thoreson; Thorpe; Timm; Uglen; Vigesaa; Wald; Wall; Weiler; Wieland; Williams; Wrangham; Zaiser; Speaker Klein

**NAYS:** Delzer; Kempenich

**ABSENT AND NOT VOTING:** Brandenburg; Hawken; Kelsch, R.; Kerzman; Weisz

SB 2095 passed and the title was agreed to.

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### SECOND READING OF SENATE BILL

**SB 2110:** A BILL for an Act to amend and reenact section 15.1-28-02 of the North Dakota Century Code, relating to removal of the duty of county treasurers to collect payments for the leasing of school lands.

### 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 88 YEAS, 0 NAYS, 0 EXCUSED, 6 ABSENT AND NOT VOTING.

**YEAS:** Aarsvold; Amerman; Bellew; Belter; Berg; Bernstein; Boe; Boehning; Boucher; Brusegaard; Carlisle; Carlson; Charging; Clark; Conrad; Damschen; Delmore; Delzer; Devlin; Dietrich; Dosch; Drovda; Ekstrom; Froelich; Froseth; Galvin; Glassheim; Grande; Gulleon; Haas; Hanson; Headland; Herbel; Horter; Hunskor; Iverson; Johnson, D.; Johnson, N.; Kaldor; Kasper; Keiser; Kelsh, S.; Kempenich; Kingsbury; Klemin; Koppelman; Kreidt; Kretschmar; Kroeber; Maragos; Martinson; Meier, L.; Metcalf; Meyer, S.; Monson; Mueller; Nelson; Nicholas; Norland; Nottestad; Onstad; Owens; Pietsch; Pollert; Porter; Potter; Price; Rennerfeldt; Ruby; Sandvig; Schmidt; Sitte; Skarphol; Solberg; Svedjan; Thoreson; Thorpe; Timm; Uglen; Vigesaa; Wald; Wall; Weiler; Wieland; Williams; Wrangham; Zaiser; Speaker Klein

**ABSENT AND NOT VOTING:** Brandenburg; DeKrey; Hawken; Kelsch, R.; Kerzman; Weisz

SB 2110 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 sections 4-18.1-04, 4-23-07, 15-19-06, 20.1-02-02, 25-01.1-20, 26.1-21-01, 26.1-21-02, 26.1-21-03, 26.1-21-04, 26.1-21-06, 26.1-21-07, 26.1-21-08, 26.1-21-09, 26.1-21-10, 26.1-21-11, 26.1-21-12, 26.1-21-14, 26.1-21-15, 26.1-21-16, 26.1-21-17, 26.1-21-18, 26.1-21-19, and 26.1-21-23, subsection 3 of section 27-05.2-02, and section 54-09-02 of the North Dakota Century Code, relating to the state bonding fund; and to repeal section 4-27-10 of the North Dakota Century Code, relating to bonding of the dairy promotion commission.

### 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 87 YEAS, 0 NAYS, 0 EXCUSED, 7 ABSENT AND NOT VOTING.

**YEAS:** Aarsvold; Amerman; Bellew; Belter; Bernstein; Boe; Boehning; Boucher; Brusegaard; Carlisle; Carlson; Charging; Clark; Conrad; Damschen; Delmore; Delzer; Devlin; Dietrich; Dosch; Drovda; Ekstrom; Froelich; Froseth; Galvin; Glassheim; Grande; Gulleon; Haas; Hanson; Headland; Herbel; Horter; Hunskor; Iverson; Johnson, D.; Johnson, N.; Kaldor; Kasper; Keiser; Kelsh, S.; Kempenich; Kingsbury; Klemin; Koppelman; Kreidt; Kretschmar; Kroeber; Maragos; Martinson; Meier, L.; Metcalf; Meyer, S.; Monson; Mueller; Nelson; Nicholas; Norland; Nottestad; Onstad; Owens; Pietsch; Pollert; Porter; Potter; Price; Rennerfeldt; Ruby; Sandvig; Schmidt; Sitte; Skarphol; Solberg; Svedjan; Thoreson; Thorpe; Timm; Uglen; Vigesaa; Wald; Wall; Weiler; Wieland; Williams; Wrangham; Zaiser; Speaker Klein

**ABSENT AND NOT VOTING:** Berg; Brandenburg; DeKrey; Hawken; Kelsch, R.; Kerzman; Weisz

SB 2043 passed and the title was agreed to.

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**SECOND READING OF SENATE BILL**

**SB 2114:** A BILL for an Act to amend and reenact subsection 9 of section 4-30-01 and sections 4-30-02, 4-30-18, 4-30-20, 4-30-36, 4-30-36.2, 4-30-36.3, and 4-30-36.4 of the North Dakota Century Code, relating to dairy regulations, reinspection fees, and references to current food and drug administration regulations.

**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 70 YEAS, 19 NAYS, 0 EXCUSED, 5 ABSENT AND NOT VOTING.

**YEAS:** Aarsvold; Amerman; Belter; Berg; Bernstein; Boehning; Boucher; Brandenburg; Brusegaard; Carlisle; Charging; Clark; Conrad; Damschen; Delmore; Devlin; Dietrich; Dosch; Ekstrom; Froelich; Galvin; Glassheim; Gulleson; Haas; Hanson; Headland; Herbel; Hunskor; Iverson; Johnson, D.; Johnson, N.; Kaldor; Kelsh, S.; Kempenich; Kingsbury; Klemin; Koppelman; Kreidt; Kretschmar; Kroeber; Maragos; Martinson; Meier, L.; Meyer, S.; Monson; Mueller; Nelson; Nicholas; Norland; Nottestad; Onstad; Owens; Pietsch; Potter; Price; Rennerfeldt; Sandvig; Schmidt; Solberg; Svedjan; Thoreson; Thorpe; Timm; Uglem; Vigasaa; Wall; Wieland; Williams; Zaiser; Speaker Klein

**NAYS:** Bellew; Carlson; DeKrey; Delzer; Drovdal; Froseth; Grande; Horter; Kasper; Keiser; Metcalf; Pollert; Porter; Ruby; Sitte; Skarphol; Wald; Weiler; Wrangham

**ABSENT AND NOT VOTING:** Boe; Hawken; Kelsch, R.; Kerzman; Weisz

Engrossed SB 2114 passed and the title was agreed to.

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

**MR. SPEAKER:** The Senate has amended and subsequently passed: HB 1178, HB 1190, HB 1191, HB 1204, HB 1211.

**SENATE AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1178**

Page 5, line 6, after "return" insert "at least fifty percent of" and remove "bail"

Page 5, line 7, remove "bond agent" and overstrike ", less five percent for court costs" and insert immediately thereafter "bail bond agent"

Renumber accordingly

**SENATE AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1190**

Page 2, line 14, replace "a tribal reservation" with "an Indian tribe"

Page 2, line 15, after the first "beds" insert "on a reservation"

Renumber accordingly

**SENATE AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1191**

Page 2, line 21, replace "a tribal reservation" with "an Indian tribe" and after "beds" insert "on a reservation"

Renumber accordingly

**SENATE AMENDMENTS TO HOUSE BILL NO. 1204**

Page 1, line 12, overstrike "and shall adopt procedures for participation"

Page 1, line 13, overstrike "by government nursing facilities"

Renumber accordingly

**SENATE AMENDMENTS TO HOUSE BILL NO. 1211**

Page 1, line 1, replace "section" with "sections" and after "12.1-23-11" insert "and 12.1-23-12"

Page 1, line 2, after "individual" insert "and jurisdiction in offenses involving conduct outside this state"

Page 1, line 19, overstrike "or"

Page 1, line 20, after "institution" insert "; or

j. An individual's birth, death, or marriage certificate"

Page 1, line 21, overstrike "a class C felony" and insert immediately thereafter "an offense"

Page 2, line 2, after the period insert "The offense is a class B felony if the credit, money, goods, services, or anything else of value exceeds one thousand dollars in value, otherwise the offense is a class C felony. A second or subsequent offense is a class A felony.

3. A violation of this section or of a law of another state or a federal law that is equivalent to this section and which resulted in a plea or finding of guilt must be considered a prior offense. The prior offense must be alleged in the complaint, information, or indictment. The plea or finding of guilt for the prior offense must have occurred before the date of the commission of the offense or offenses charged in the complaint, information, or indictment.
4. A prosecution for a violation of this section must be commenced within six years after discovery by the victim of the offense of the facts constituting the violation.
5. When a person commits violations of this section in more than one county involving either one or more victims or the commission of acts constituting an element of the offense, the multiple offenses may be considered for commencement of prosecution in any county where one of the offenses was committed.

**SECTION 2. AMENDMENT.** Section 12.1-23-12 of the North Dakota Century Code is amended and reenacted as follows:

**12.1-23-12. Jurisdiction - Conduct outside this state.** Notwithstanding section 29-03-01.1, a person who, while outside this state and by use of deception, obtains, deprives, or conspires, solicits, or attempts to obtain the property of a person within this state or to deprive ~~such~~ the person of property is subject to prosecution under this chapter in the courts of this state.~~The~~ Except as provided in section 12.1-23-11, the venue is in the county in which the victim resides or any other county in which any part of the crime occurred."

ReNUMBER accordingly

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

**MR. SPEAKER:** The Senate has amended, subsequently passed, and the emergency clause carried: HB 1086.

**SENATE AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1086**

Page 1, line 3, after "site" insert "; and to declare an emergency"

Page 1, after line 18, insert:

**"SECTION 2. EMERGENCY.** This Act is declared to be an emergency measure."

ReNUMBER accordingly

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

**MR. SPEAKER:** The Senate has passed unchanged: HB 1053, HB 1059, HB 1082, HB 1132, HB 1133, HB 1150, HB 1158, HB 1228, HB 1267, HB 1436.

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

**MR. PRESIDENT:** The House has amended and subsequently passed: SB 2079.

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

**MR. PRESIDENT:** The House has passed unchanged: SB 2070, SB 2080, SB 2081, SB 2083, SB 2084, SB 2103, SB 2104, SB 2105, SB 2123, SB 2131, SB 2135, SB 2148.

**MOTION**

**REP. MONSON MOVED** that the absent members be excused, which motion prevailed.

**MOTION**

**REP. MONSON MOVED** that the House be on the Fifth, Thirteenth, and Fourteenth orders of business and at the conclusion of those orders, the House stand adjourned until 1:00 p.m., Monday, February 28, 2005, which motion prevailed.

**REPORT OF STANDING COMMITTEE**

**HCR 3050: Human Services Committee (Rep. Price, Chairman)** recommends **DO PASS** and **BE PLACED ON THE CONSENT CALENDAR** (9 YEAS, 0 NAYS, 3 ABSENT AND NOT VOTING). HCR 3050 was placed on the Tenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HCR 3054: Human Services Committee (Rep. Price, Chairman)** recommends **DO PASS** and **BE PLACED ON THE CONSENT CALENDAR** (9 YEAS, 0 NAYS, 3 ABSENT AND NOT VOTING). HCR 3054 was placed on the Tenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2040: Natural Resources Committee (Rep. Nelson, Chairman)** recommends **DO PASS** (11 YEAS, 0 NAYS, 3 ABSENT AND NOT VOTING). SB 2040 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2072: Government and Veterans Affairs Committee (Rep. Haas, Chairman)** recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2072 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2089: Government and Veterans Affairs Committee (Rep. Haas, Chairman)** recommends **DO PASS** (12 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). SB 2089 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2092: Government and Veterans Affairs Committee (Rep. Haas, Chairman)** recommends **DO PASS** (12 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). SB 2092 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2097: Natural Resources Committee (Rep. Nelson, Chairman)** recommends **DO PASS** (11 YEAS, 0 NAYS, 3 ABSENT AND NOT VOTING). SB 2097 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2100: Natural Resources Committee (Rep. Nelson, Chairman)** recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2100 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2126: Natural Resources Committee (Rep. Nelson, Chairman)** recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2126 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2155, as engrossed: Natural Resources Committee (Rep. Nelson, Chairman)** recommends **DO PASS** (8 YEAS, 4 NAYS, 2 ABSENT AND NOT VOTING). Engrossed SB 2155 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2156: Agriculture Committee (Rep. Nicholas, Chairman)** recommends **DO PASS** (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2156 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2161: Agriculture Committee (Rep. Nicholas, Chairman)** recommends **DO PASS** (8 YEAS, 3 NAYS, 2 ABSENT AND NOT VOTING). SB 2161 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2171: Government and Veterans Affairs Committee (Rep. Haas, Chairman)** recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2171 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2207: Political Subdivisions Committee (Rep. Devlin, Chairman)** recommends **DO PASS** (12 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2207 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2264: Government and Veterans Affairs Committee (Rep. Haas, Chairman)** recommends **BE PLACED ON THE CALENDAR WITHOUT RECOMMENDATION** (7 YEAS, 7 NAYS, 0 ABSENT AND NOT VOTING). SB 2264 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SCR 4001: Appropriations Committee (Rep. Svedjan, Chairman)** recommends **DO PASS** and **BE PLACED ON THE CONSENT CALENDAR** (23 YEAS, 0 NAYS, 3 ABSENT AND NOT VOTING). SCR 4001 was placed on the Tenth order on the calendar.

The House stood adjourned pursuant to Representative Monson's motion.

**Bradley C. Fay, Chief Clerk**

