

## JOURNAL OF THE SENATE

## Sixtieth Legislative Assembly

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Bismarck, February 6, 2007

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

The prayer was offered by Reverend Rich Wyatt, Living Hope Church of the Nazarene, Bismarck.

The roll was called and all members were present except Senators Andrist and Bowman.

A quorum was declared by the President.

## CONSIDERATION OF AMENDMENTS

**SB 2166: SEN. HACKER (Finance and Taxation Committee) MOVED** that the amendments on SJ pages 310-311 be adopted with **DO PASS**, which motion prevailed.

## MOTION

**PRESIDENT DALRYMPLE ANNOUNCED** that Engrossed SB 2166 will be rereferred to the Appropriations Committee.

## CONSIDERATION OF AMENDMENTS

**SB 2196: SEN. OLAFSON (Judiciary Committee) MOVED** that the amendments on SJ pages 311-312 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

## CONSIDERATION OF AMENDMENTS

**SB 2213: SEN. LYSON (Judiciary Committee) MOVED** that the amendments on SJ page 312 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

## CONSIDERATION OF AMENDMENTS

**SB 2121: SEN. HACKER (Industry, Business and Labor Committee) MOVED** that the amendments on SJ page 310 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

## CONSIDERATION OF AMENDMENTS

**SB 2241: SEN. LYSON (Judiciary Committee) MOVED** that the amendments on SJ page 312 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

## CONSIDERATION OF AMENDMENTS

**SB 2254: SEN. TRIPLETT (Natural Resources Committee) MOVED** that the amendments on SJ page 312 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

## CONSIDERATION OF AMENDMENTS

**SB 2287: SEN. BAKKE (Education Committee) MOVED** that the amendments on SJ page 313 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

## CONSIDERATION OF AMENDMENTS

**SB 2315: SEN. G. LEE (Transportation Committee) MOVED** that the amendments on SJ page 313 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

## CONSIDERATION OF AMENDMENTS

**SB 2317: SEN. NELSON (Judiciary Committee) MOVED** that the amendments on SJ page 313 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

## CONSIDERATION OF AMENDMENTS

**SB 2350: SEN. FIEBIGER (Judiciary Committee) MOVED** that the amendments on SJ page 314 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

**CONSIDERATION OF AMENDMENTS**

**SB 2358: SEN. NELSON (Judiciary Committee) MOVED** that the amendments on SJ page 314 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

**CONSIDERATION OF AMENDMENTS**

**SB 2366: SEN. MARCELLAIS (Judiciary Committee) MOVED** that the amendments on SJ page 315 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

**MOTION**

**SEN. CHRISTMANN MOVED** that SB 2380, SB 2381, and SB 2407 be moved to the top of the Eleventh order, which motion prevailed.

**SECOND READING OF SENATE BILL**

**SB 2380:** A BILL for an Act to create and enact four new sections to chapter 57-39.4 of the North Dakota Century Code, relating to administration of the streamlined sales tax agreement; to amend and reenact subsection 2 of section 11-09.1-05, subsection 16 of section 40-05.1-06, section 57-39.2-01, subsection 1 of section 57-39.2-02.1, subsection 26 of section 57-39.2-04, sections 57-39.2-04.1, 57-39.4-01, 57-39.4-06, 57-39.4-07, and 57-39.4-08, subsection 1 of section 57-39.4-09, sections 57-39.4-10, 57-39.4-15, 57-39.4-16, 57-39.4-17, and 57-39.4-18, subsection 1 of section 57-39.4-20, subsection 12 of section 57-40.2-04, and section 57-40.2-04.1 of the North Dakota Century Code, relating to sales and use tax amendments necessary for compliance with the streamlined sales and use tax agreement; and to repeal sections 57-39.2-29 and 57-39.4-13 of the North Dakota Century Code, relating to administration of sourcing and multiple points of use rules for the streamlined sales tax agreement.

**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:** Anderson; Bakke; Behm; Bowman; Christmann; Cook; Dever; Erbele; Fiebigler; Fischer; Flakoll; Freborg; Grindberg; Hacker; Heckaman; Heitkamp; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Marcellais; Mathern; Nelson; Nething; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Seymour; Stenehjem; Tallackson; Taylor; Tollefson; Triplett; Urlacher; Wanzek; Wardner; Warner

**ABSENT AND NOT VOTING:** Andrist

SB 2380 passed and the title was agreed to.

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**SECOND READING OF SENATE BILL**

**SB 2381:** A BILL for an Act to amend and reenact sections 57-39.2-12.1 and 57-40.2-07.1 of the North Dakota Century Code, relating to reimbursements to retailers for administrative expenses associated with sales and use tax collection and remittance; 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 PASS, the roll was called and there were 46 YEAS, 0 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Anderson; Bakke; Behm; Bowman; Christmann; Cook; Dever; Erbele; Fiebigler; Fischer; Flakoll; Freborg; Grindberg; Hacker; Heckaman; Heitkamp; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Marcellais; Mathern; Nelson; Nething; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Seymour; Stenehjem; Tallackson; Taylor; Tollefson; Triplett; Urlacher; Wanzek; Wardner; Warner

**ABSENT AND NOT VOTING:** Andrist

SB 2381 passed and the title was agreed to.

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**SECOND READING OF SENATE BILL**

**SB 2407:** A BILL for an Act to create and enact a new subsection to section 57-39.2-04 of the North Dakota Century Code, relating to a sales and use tax exemption for sales of water in containers of one gallon or less; 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 0 YEAS, 46 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**NAYS:** Anderson; Bakke; Behm; Bowman; Christmann; Cook; Dever; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Hacker; Heckaman; Heitkamp; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Marcellais; Mathern; Nelson; Nething; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Seymour; Stenehjerm; Tallackson; Taylor; Tollefson; Triplett; Urlacher; Wanzek; Wardner; Warner

**ABSENT AND NOT VOTING:** Andrist

SB 2407 lost.

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**SECOND READING OF SENATE BILL**

**SB 2275:** A BILL for an Act to provide an appropriation to the state treasurer for providing grants to counties for township road and bridge maintenance and improvements.

**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 22 YEAS, 24 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Anderson; Bakke; Behm; Bowman; Heckaman; Heitkamp; Horne; Krauter; Lee, G.; Lindaas; Marcellais; Mathern; O'Connell; Oehlke; Olafson; Pomeroy; Robinson; Seymour; Tallackson; Taylor; Triplett; Warner

**NAYS:** Christmann; Cook; Dever; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Hacker; Holmberg; Kilzer; Klein; Krebsbach; Lee, J.; Lyson; Nelson; Nething; Potter; Stenehjerm; Tollefson; Urlacher; Wanzek; Wardner

**ABSENT AND NOT VOTING:** Andrist

SB 2275 lost.

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**SECOND READING OF SENATE BILL**

**SB 2281:** A BILL for an Act to amend and reenact section 20.1-01-17, subdivision g of subsection 5 of section 39-24-09, and subdivision g of subsection 5 of section 39-29-09 of the North Dakota Century Code, relating to posting land to prohibit hunting and the operation of snowmobiles and off-highway vehicles.

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

**YEAS:** Bowman; Erbele; Kilzer; Krauter; Lee, J.; Pomeroy; Tallackson

**NAYS:** Anderson; Bakke; Behm; Christmann; Cook; Dever; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Hacker; Heckaman; Heitkamp; Holmberg; Horne; Klein; Krebsbach; Lee, G.; Lindaas; Lyson; Marcellais; Mathern; Nelson; Nething; O'Connell; Oehlke; Olafson; Potter; Robinson; Seymour; Stenehjerm; Taylor; Tollefson; Triplett; Urlacher; Wanzek; Wardner; Warner

**ABSENT AND NOT VOTING:** Andrist

SB 2281 lost.

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**SECOND READING OF SENATE BILL**

**SB 2319:** A BILL for an Act to amend and reenact sections 19-03.1-01 and 19-03.4-08 of the North Dakota Century Code, relating to definitions and the sale of scheduled listed chemical products.

**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:** Anderson; Bakke; Behm; Bowman; Christmann; Cook; Dever; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Hacker; Heckaman; Heitkamp; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Marcellais; Mathern; Nelson; Nething; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Seymour; Stenehjem; Tallackson; Taylor; Tollefson; Triplett; Urlacher; Wanzek; Wardner; Warner

**ABSENT AND NOT VOTING:** Andrist

SB 2319 passed and the title was agreed to.

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**SECOND READING OF SENATE BILL**

**SB 2320:** A BILL for an Act to amend and reenact section 12.1-32-07 of the North Dakota Century Code, relating to the revocation of probation.

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

**YEAS:** Anderson; Bakke; Behm; Bowman; Christmann; Cook; Dever; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Hacker; Heckaman; Heitkamp; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Marcellais; Mathern; Nelson; Nething; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Seymour; Stenehjem; Tallackson; Taylor; Tollefson; Triplett; Urlacher; Wanzek; Wardner; Warner

**ABSENT AND NOT VOTING:** Andrist

Engrossed SB 2320 passed and the title was agreed to.

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**SECOND READING OF SENATE BILL**

**SB 2332:** A BILL for an Act to amend and reenact subsections 7, 8, 34, 35, and 50 of section 20.1-03-12 of the North Dakota Century Code, relating to nonresident fishing license fees.

**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 4 YEAS, 42 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Cook; Dever; Horne; Stenehjem

**NAYS:** Anderson; Bakke; Behm; Bowman; Christmann; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Hacker; Heckaman; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Marcellais; Mathern; Nelson; Nething; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Seymour; Tallackson; Taylor; Tollefson; Triplett; Urlacher; Wanzek; Wardner; Warner

**ABSENT AND NOT VOTING:** Andrist

SB 2332 lost.

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**SECOND READING OF SENATE BILL**

**SB 2367:** A BILL for an Act to amend and reenact subsection 4 of section 38-08-04, subsection 10 of section 57-51.1-01, and subsection 1 of section 57-51.1-03.1 of the

North Dakota Century Code, relating to annual recertification of stripper well status under the oil extraction tax; 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 11 YEAS, 35 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Bakke; Behm; Fiebiger; Horne; Marcellais; Mathern; Nelson; Potter; Seymour; Tallackson; Warner

**NAYS:** Anderson; Bowman; Christmann; Cook; Dever; Erbele; Fischer; Flakoll; Freborg; Grindberg; Hacker; Heckaman; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Nething; O'Connell; Oehlke; Olafson; Pomeroy; Robinson; Stenehjem; Taylor; Tollefson; Triplett; Urlacher; Wanzek; Wardner

**ABSENT AND NOT VOTING:** Andrist

SB 2367 lost.

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#### SECOND READING OF SENATE BILL

**SB 2369:** A BILL for an Act to amend and reenact section 61-35-15 of the North Dakota Century Code, relating to revenue bonds issued by water districts.

#### 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:** Anderson; Bakke; Behm; Bowman; Christmann; Cook; Dever; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Hacker; Heckaman; Heitkamp; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Marcellais; Mathern; Nelson; Nething; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Seymour; Stenehjem; Tallackson; Taylor; Tollefson; Triplett; Urlacher; Wanzek; Wardner; Warner

**ABSENT AND NOT VOTING:** Andrist

SB 2369 passed and the title was agreed to.

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#### SECOND READING OF SENATE BILL

**SB 2383:** A BILL for an Act to provide for one public service commissioner; 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 14 YEAS, 32 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Behm; Heckaman; Heitkamp; Holmberg; Horne; Krauter; Marcellais; Mathern; Nelson; Nething; Potter; Taylor; Triplett; Warner

**NAYS:** Anderson; Bakke; Bowman; Christmann; Cook; Dever; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Hacker; Kilzer; Klein; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; O'Connell; Oehlke; Olafson; Pomeroy; Robinson; Seymour; Stenehjem; Tallackson; Tollefson; Urlacher; Wanzek; Wardner

**ABSENT AND NOT VOTING:** Andrist

SB 2383 lost.

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#### SECOND READING OF SENATE CONCURRENT RESOLUTION

**SCR 4014:** A concurrent resolution for the amendment of sections 2 and 5 of article V of the Constitution of North Dakota, relating to the public service commission; to provide for application; and to provide an effective date.

**ROLL CALL**

The question being on the final adoption of the resolution, which has been read, and has committee recommendation of DO NOT PASS, the roll was called and there were 3 YEAS, 43 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Marcellais; Mathern; Potter

**NAYS:** Anderson; Bakke; Behm; Bowman; Christmann; Cook; Dever; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Hacker; Heckaman; Heitkamp; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Nelson; Nething; O'Connell; Oehlke; Olafson; Pomeroy; Robinson; Seymour; Stenehjerm; Tallackson; Taylor; Tollefson; Triplett; Urlacher; Wanzek; Wardner; Warner

**ABSENT AND NOT VOTING:** Andrist

SCR 4014 was declared lost.

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**SECOND READING OF SENATE BILL**

**SB 2386:** A BILL for an Act to create and enact two new sections to chapter 36-01 of the North Dakota Century Code, relating to administration of the animal identification program by the state board of animal health; and to repeal sections 36-09-25 and 36-09-28 of the North Dakota Century Code, relating to administration of the animal identification program by the North Dakota stockmen's association.

**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 2 YEAS, 44 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Mathern; Seymour

**NAYS:** Anderson; Bakke; Behm; Bowman; Christmann; Cook; Dever; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Hacker; Heckaman; Heitkamp; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Marcellais; Nelson; Nething; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Stenehjerm; Tallackson; Taylor; Tollefson; Triplett; Urlacher; Wanzek; Wardner; Warner

**ABSENT AND NOT VOTING:** Andrist

SB 2386 lost.

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**SECOND READING OF SENATE BILL**

**SB 2399:** A BILL for an Act to amend and reenact section 16.1-15-13 of the North Dakota Century Code, relating to the examination of ballots.

**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 2 YEAS, 44 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** O'Connell; Oehlke

**NAYS:** Anderson; Bakke; Behm; Bowman; Christmann; Cook; Dever; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Hacker; Heckaman; Heitkamp; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Marcellais; Mathern; Nelson; Nething; Olafson; Pomeroy; Potter; Robinson; Seymour; Stenehjerm; Tallackson; Taylor; Tollefson; Triplett; Urlacher; Wanzek; Wardner; Warner

**ABSENT AND NOT VOTING:** Andrist

SB 2399 lost.

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**SECOND READING OF SENATE BILL**

**SB 2403:** A BILL for an Act to amend and reenact sections 23-09.3-01.1 and 23-16-01.1 of the North Dakota Century Code, relating to exemptions to the moratoriums on the expansion of basic care bed capacity and long-term care bed capacity.

**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 6 YEAS, 40 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Behm; Heckaman; Marcellais; Mathern; O'Connell; Potter

**NAYS:** Anderson; Bakke; Bowman; Christmann; Cook; Dever; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Hacker; Heitkamp; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Nelson; Nething; Oehlke; Olafson; Pomeroy; Robinson; Seymour; Stenehjerm; Tallackson; Taylor; Tollefson; Triplett; Urlacher; Wanzek; Wardner; Warner

**ABSENT AND NOT VOTING:** Andrist

SB 2403 lost.

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**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 2132, SB 2154, SB 2194.

**MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)**

**MR. PRESIDENT:** The House has passed and your favorable consideration is requested on: HB 1033, HB 1185, HB 1215, HB 1226, HB 1278, HB 1316, HB 1328, HB 1355, HB 1390, HB 1396, HCR 3001, HCR 3002, HCR 3014.

**MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)**

**MR. PRESIDENT:** The House has passed, the emergency clause carried, and your favorable consideration is requested on: HB 1199.

**MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)**

**MR. PRESIDENT:** The House has passed unchanged: SB 2189.

**MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)**

**MR. PRESIDENT:** The House has passed, the emergency clause carried, unchanged: SB 2024.

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

**MR. SPEAKER:** Your signature is respectfully requested on: SB 2024.

**MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)**

**MR. PRESIDENT:** The Speaker has signed: SB 2024.

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

**MR. SPEAKER:** Your signature is respectfully requested on: SB 2189.

**MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)**

**MR. PRESIDENT:** The Speaker has signed: SB 2189.

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

**MR. SPEAKER:** The President has signed: SB 2189.

**DELIVERY OF ENROLLED BILLS AND RESOLUTIONS**

The following bill was delivered to the Governor for approval on February 6, 2007: SB 2189.

**MOTION**

**SEN. CHRISTMANN MOVED** that the absent member 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 12:30 p.m., Wednesday, February 7, 2007, which motion prevailed.

**REPORT OF STANDING COMMITTEE**

**SB 2208: Finance and Taxation Committee (Sen. Urlacher, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (4 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). SB 2208 was placed on the Sixth order on the calendar.

Page 1, line 2, after the second "the" insert "maximum valuation of a", after "home" insert "eligible for a", and replace "when a" with "and income limitations under the farm home property tax exemption"

Page 1, line 3, remove "disaster declaration is in effect"

Page 1, line 8, after "only" insert "up to seventy-five thousand dollars of the true and full valuation of"

Page 1, remove lines 20 through 23

Page 2, line 6, remove "The fifty"

Page 2, remove lines 7 through 9

Page 2, line 10, remove "is located in a state of disaster under chapter 37-17.1."

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**SB 2212: Human Services Committee (Sen. J. Lee, Chairman)** recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2212 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2225: Finance and Taxation Committee (Sen. Urlacher, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2225 was placed on the Sixth order on the calendar.

Page 1, line 11, replace "two" with "three"

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**SB 2273: Industry, Business and Labor Committee (Sen. Klein, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2273 was placed on the Sixth order on the calendar.

Page 1, line 1, remove "to create and enact a new section to chapter 23-11 of the North Dakota"

Page 1, line 2, remove "Century Code, relating to housing authority project bidding; and"

Page 4, line 21, remove "construction."

Page 4, line 23, remove the overstrike over "~~The construction of a housing project is a~~"

Page 4, remove the overstrike over lines 24 and 25

Page 6, remove lines 26 through 30

Page 7, remove lines 1 through 10

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**SB 2309, as engrossed: Appropriations Committee (Sen. Holmberg, Chairman)** recommends **DO PASS** (12 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). Engrossed SB 2309 was placed on the Eleventh order on the calendar.



**REPORT OF STANDING COMMITTEE**

**SB 2352: Human Services Committee (Sen. J. Lee, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2352 was placed on the Sixth order on the calendar.

Page 1, after line 16, insert:

- "4. A political subdivision may enact and enforce an ordinance restricting tattooing and piercing or restricting the sale of tattooing and piercing materials and kits if the ordinance is equal to or more stringent than this section."

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**SB 2372: Finance and Taxation Committee (Sen. Urlacher, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (6 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). SB 2372 was placed on the Sixth order on the calendar.

Page 1, line 10, after "accredited" insert "or approved"

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**SB 2375: Appropriations Committee (Sen. Holmberg, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **BE PLACED ON THE CALENDAR WITHOUT RECOMMENDATION** (13 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). SB 2375 was placed on the Sixth order on the calendar.

Page 1, line 1, after "sections" insert "39-01-16, 39-02-03.1, 39-06-34, 39-06.1-11,"

Page 1, after line 6, insert:

**"SECTION 1. AMENDMENT.** Section 39-01-16 of the North Dakota Century Code is amended and reenacted as follows:

**39-01-16. Hearing on alleged violations.**

1. Any person having information that a licensed dealer has violated any provisions of this title may file with the director an affidavit specifically ~~setting forth such~~ stating the facts of the violation. Upon receipt of ~~such~~ the affidavit, the director shall investigate the violation alleged in the affidavit. If, after investigation, the director determines that the dealer's license will be revoked or suspended, a notice of intent to revoke or suspend the license must be mailed to the dealer by certified mail. The notice must provide the dealer with an opportunity for a hearing ~~prior to~~ before the effective date of the license revocation or suspension. A record of ~~such hearings~~ the hearing must be made by stenographic notes or use of an electronic recording device.
2. If after ~~such~~ the hearing the ~~director~~ administrative law judge finds the violation charged in the affidavit has been proved by the evidence, an order must be served on the licensee revoking or suspending the dealer's license for a period of time to be determined by the director. ~~Such~~ The action may be appealed to the district court by following the appeal procedure set forth in chapter 28-32, except that the order revoking or suspending the license is ineffective while the appeal is pending.

~~The director has the power to appoint an administrative hearing officer to conduct the hearing, administer oaths, and subpoena and examine witnesses. The administrative hearing officer shall submit the findings to the director for consideration and final decision.~~

3. Any witness called by the prosecution, except a peace officer while on duty, ~~shall~~ must receive the same fees and mileage as a witness in a civil case in district court.

**SECTION 2. AMENDMENT.** Section 39-02-03.1 of the North Dakota Century Code is amended and reenacted as follows:

**39-02-03.1. Director to provide notice and opportunity for hearing ~~prior to~~ before cancellation, revocation, suspension, or rescission of a motor vehicle registration or a certificate of title to a motor vehicle.** ~~Whenever, under~~ Under the laws pertaining to the cancellation, revocation, suspension, or rescission of a registration of a motor vehicle or a certificate of title to a motor vehicle, if a determination has been made to cancel, revoke, suspend, or rescind either the registration or certificate of title, or both, the director shall provide the legal and registered owner with notice of ~~such~~ the cancellation, revocation, suspension, or rescission and the opportunity for a hearing. ~~Such~~ The notice must be sent by registered or certified mail, return receipt requested, not less than ten days ~~prior to~~ before the effective date of the cancellation, revocation, suspension, or rescission.

**SECTION 3. AMENDMENT.** Section 39-06-34 of the North Dakota Century Code is amended and reenacted as follows:

**39-06-34. Director may require reexamination.** In addition to other powers set forth in this chapter, the director, having good cause to believe that a licensed operator is incompetent or otherwise not qualified to be licensed, may upon written notice of at least five days to the licensee require the licensee to submit to such physical, mental, or driver's examination as may be deemed necessary. If the director has good cause to believe that the licensed operator presents an immediate danger to the motoring public, the director may immediately, and without prior notice, suspend the operator's license pending the examination. The notice of suspension must provide the operator with the opportunity for a hearing within five days of the receipt of the notice of suspension. When a hearing is requested it must be conducted under section 39-06-33 and ~~the hearing officer's~~ administrative law judge's recommended decision must be rendered within two days of the conclusion of the hearing. Upon the conclusion of such examination the director shall take action as may be appropriate and may suspend or revoke the license of such person or permit the licensee to retain the license, or may issue a license subject to restrictions as permitted under section 39-06-17. Refusal or neglect of the licensee to submit to such examination shall be grounds for suspension or revocation of the license.

**SECTION 4. AMENDMENT.** Section 39-06.1-11 of the North Dakota Century Code is amended and reenacted as follows:

**39-06.1-11. Temporary restricted license - Ignition interlock device.**

1. Except as provided under subsection 2, if the director has suspended a license under section 39-06.1-10 or has extended a suspension or revocation under section 39-06-43, upon receiving written application from the offender affected, the director may for good cause issue a temporary restricted operator's license valid for the remainder of the suspension period after seven days of the suspension period have passed.
2. If the director has suspended a license under chapter 39-20, or after a violation of section 39-08-01 or equivalent ordinance, upon written application of the offender the director may issue for good cause a temporary restricted license that takes effect after thirty days of the suspension have been served after a first offense under section 39-08-01 or chapter 39-20. The director may not issue a temporary restricted license to any offender whose operator's license has been revoked under section 39-20-04 or suspended upon a second or subsequent offense under section 39-08-01 or chapter 39-20, except that a temporary restricted license may be issued for good cause if the offender has not committed an offense for a period of two years before the date of the filing of a written application that must be accompanied by a report from an addiction facility or if the offender is participating in the drug court program and has not committed an offense for a period of three hundred sixty-five days before the date of the filing of a written application that must be accompanied by a recommendation from the district court. The director may ~~conduct~~ request a hearing for the purposes of obtaining information, reports, and evaluations from courts, law enforcement, and citizens to determine the offender's conduct and driving behavior during the prerequisite period of time. The director may also require that an ignition interlock device be installed in the offender's vehicle.

3. The director may not issue a temporary restricted license for a period of license revocation or suspension imposed under subsection 5 of section 39-06-17, section 39-06-31, or subsection 3.1 of section 39-06.1-10. A temporary restricted license may be issued for suspensions ordered under subsection 7 of section 39-06-32 if it could have been issued had the suspension resulted from in-state conduct.
4. A restricted license issued under this section is solely for the use of a motor vehicle during the licensee's normal working hours and may contain any other restrictions authorized by section 39-06-17. Violation of a restriction imposed according to this section is deemed a violation of section 39-06-17."

Page 13, line 14, overstrike "the department of"

Page 13, line 15, overstrike "transportation,"

Page 13, line 22, overstrike the comma

Page 13, line 25, remove the overstrike over "and"

Page 13, line 26, remove "; and hearings of the department of"

Page 13, line 27, remove "transportation under sections 39-06.2-10.6 and 39-20-05"

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**SB 2378: Judiciary Committee (Sen. Nething, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2378 was placed on the Sixth order on the calendar.

Page 1, line 16, remove the overstrike over "felony"

Page 1, line 17, remove "criminal"

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**SB 2390: Industry, Business and Labor Committee (Sen. Klein, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (4 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING). SB 2390 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 subsection 1 of section 6-02-01 and section 6-05-02 of the North Dakota Century Code, relating to the use of terms for bank, annuity, safe deposit, surety, and trust company regulation purposes; and to declare an emergency.

**SECTION 1. AMENDMENT.** Subsection 1 of section 6-02-01 of the North Dakota Century Code is amended and reenacted as follows:

1. No person, firm, company, copartnership, or corporation, either domestic or foreign, not organized under this chapter or authorized to take on banking powers under this section, except national banking corporations, banks organized under the laws of another state, domestic or foreign bank holding companies, their affiliates, bona fide financial institution trade associations and their affiliates, and the Bank of North Dakota, may make use of or display in connection with its business, in signs, letterheads, advertising, or in any other way, such words as "bank", "banker", or "banking", or any other word or words of like import, nor may any person or concern do or perform anything in the nature of the business of a bank until and unless such business is regularly organized or authorized under this chapter. Upon written request, the commissioner may grant an exemption to this section if the commissioner finds that use of the words "bank", "banker", "banking", or words of like import are not reasonably likely to cause confusion or lead the public to believe that the person requesting the exemption is a banking institution or is conducting a business subject to the jurisdiction of the department. In granting an exemption under this section,

the commissioner may restrict or condition the exemption and use of the name or word or the activities of an exempt person as the commissioner considers appropriate to protect the public interest.

**SECTION 2. AMENDMENT.** Section 6-05-02 of the North Dakota Century Code is amended and reenacted as follows:

**6-05-02. Compliance with chapter required - Penalty for noncompliance.**

No person, firm, company, copartnership, or corporation, either domestic or foreign, not organized under this chapter nor subject to its provisions, except only national banking corporations, state banks authorized under this chapter, state banks or trust companies authorized to engage in trust activities under the laws of another state, their affiliates, bona fide banking institution trade associations and their affiliates, and the Bank of North Dakota, may make use of or display in connection with its business, in signs, letterheads, advertising, or in any other way, such words as "trust", "trust company", or any other word or words of like import, nor may any person or concern do or perform anything in the nature of the business of a trust company until and unless such business is regularly organized and authorized under this chapter. If any firm or corporation organized prior to July 1, 1931, has been granted a charter permitting it to use any word, words, or title contrary to the intent of this section, and by reason of its rights under such charter, the provisions of this section may not be enforced against it during the life of such charter. However, no renewal charter may be granted to such person, firm, or corporation permitting the continuance of the use of such word, words, or title contrary to or in violation of this section. Any person, firm, or corporation which, by reason of an existing charter right under any law or statute in effect prior to July 1, 1931, may be held by the courts not to be affected by this section and which therefore refuses to comply with the provisions of this section, during the period of noncompliance, shall display, prominently and continuously in plain, legible, and clearly discernible lettering on all of its signs, stationery, circulars, and advertising, and in all of its printed or written matter the following words and language: "NOT UNDER THE SUPERVISION OF THE STATE BANKING BOARD OR THE COMMISSIONER OF FINANCIAL INSTITUTIONS", and such language must be displayed thereon as prominently as any other matter therein. Any person, firm, company, copartnership, or corporation, domestic or foreign, violating any provision of this section, shall forfeit to the state one hundred dollars for every day or part thereof during which such violation continues. In an action brought by the commissioner or any aggrieved person, the court may issue an injunction restraining such person, firm, company, copartnership, or corporation from further using such words, terms, or phrases in violation of this section or from further transacting business in such a way or manner as to lead the public to believe that its business is in whole or in part of the nature of a trust company, or that it is under the supervision of the state banking board or the commissioner. Upon written request, the commissioner may grant an exemption to this section if the commissioner finds that use of the words "trust", "trust company", or words of like import, are not reasonably likely to cause confusion or lead the public to believe that the person requesting the exemption is a banking institution or is conducting a business subject to the jurisdiction of the department. In granting an exemption under this section, the commissioner may restrict or condition the exemption and use of the name or word or the activities of an exempt person as the commissioner considers appropriate to protect the public interest.

**SECTION 3. EMERGENCY.** This Act is declared to be an emergency measure."

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**SCR 4018: Human Services Committee (Sen. J. Lee, Chairman)** recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SCR 4018 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SCR 4019: Human Services Committee (Sen. J. Lee, Chairman)** recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SCR 4019 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SCR 4009: Judiciary Committee (Sen. Nething, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SCR 4009 was placed on the Sixth order on the calendar.

Page 1, line 9, replace "2006" with "2008"

Page 1, line 13, replace "must" with "shall", replace "a" with "for sale gasoline containing at least", and remove "blend of"

Page 1, line 14, remove the first "for sale"

Page 1, line 15, replace "must" with "shall"

Renumber accordingly

#### **FIRST READING OF SENATE CONCURRENT RESOLUTIONS**

Sens. Bakke, Heitkamp, Mathern and Reps. Delmore, Ekstrom, Wolf introduced:

**SCR 4024:** A concurrent resolution directing the Legislative Council to study universal health care for North Dakotans, including consideration of how other states have addressed access to health care, the costs and benefits associated with universal health care, and the impact of universal health care on children, adults, and families.

Was read the first time and referred to the **Industry, Business and Labor Committee**.

Sens. Warner, J. Lee and Rep. Price introduced:

**SCR 4025:** A concurrent resolution directing the Legislative Council to study the feasibility and desirability of developing and funding a program to provide services to youth in foster care who are preparing to transition to adulthood and for youth between 18 and 21 years of age who have left foster care and need assistance.

Was read the first time and referred to the **Human Services Committee**.

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

**William R. Horton, Secretary**

