

## JOURNAL OF THE SENATE

## Sixty-second Legislative Assembly

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Bismarck, February 14, 2011

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

The prayer was offered by Pastor Dale Emery, New Rockford United Methodist Church and Kvernes Lutheran Church, New Rockford.

The roll was called and all members were present.

A quorum was declared by the President.

## CORRECTION AND REVISION OF THE JOURNAL

**MR. PRESIDENT:** Your **Committee on Correction and Revision of the Journal (Sen. Andrist, Chairman)** has carefully examined the Journal of the Twenty-eighth Day and recommends that it be corrected as follows and when so corrected, recommends that it be approved:

Page 373, line 23, replace "SB 2231" with "SB 2331"

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

## CONSIDERATION OF AMENDMENTS

**SB 2346: SEN. OEHLKE (Transportation Committee) MOVED** that the amendments on SJ page 384 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed on a voice vote.

## CONSIDERATION OF AMENDMENTS

**SB 2010: SEN. WARDNER (Appropriations Committee) MOVED** that the amendments on SJ pages 380-381 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed on a voice vote.

## CONSIDERATION OF AMENDMENTS

**SB 2169: SEN. SORVAAG (Government and Veterans Affairs Committee) MOVED** that the amendments on SJ page 381 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed on a voice vote.

## CONSIDERATION OF AMENDMENTS

**SB 2276: SEN. J. LEE (Human Services Committee) MOVED** that the amendments on SJ pages 382-383 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed on a voice vote.

## MOTION

**SEN. CHRISTMANN MOVED** that SB 2276 be placed at the top of the Eleventh order, which motion prevailed.

## SECOND READING OF SENATE BILL

**SB 2276:** A BILL for an Act to create and enact a new chapter to title 23 of the North Dakota Century Code, relating to creating a state vaccine fund and a North Dakota vaccine group purchasing board; to amend and reenact section 23-01-05.3 of the North Dakota Century Code, relating to reporting immunization data; to provide a penalty; and to declare an emergency.

## 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 28 YEAS, 19 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Burckhard; Christmann; Cook; Dever; Dotzenrod; Erbele; Fischer; Flakoll;

Freborg; Heckaman; Holmberg; Kilzer; Krebsbach; Laffen; Lee, J.; Marcellais; Mathern; Murphy; Oehlke; Robinson; Schaible; Schneider; Sorvaag; Taylor; Triplett; Uglem; Warner

**NAYS:** Berry; Bowman; Grindberg; Hogue; Klein; Larsen; Lee, G.; Luick; Lyson; Miller; Nelson; Nething; Nodland; O'Connell; Olafson; Sitte; Stenehjem; Wanzek; Wardner

Engrossed SB 2276 passed but the emergency clause failed.

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#### **SECOND READING OF SENATE BILL**

**SB 2002:** A BILL for an Act to provide an appropriation for defraying the expenses of the office of the secretary of state and public printing; to provide an exemption; and to amend and reenact section 54-09-05 of the North Dakota Century Code, relating to the salary of the secretary of state.

#### **ROLL CALL**

The question being on the final passage of the bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 47 YEAS, 0 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Berry; Bowman; Burckhard; Christmann; Cook; Dever; Dotzenrod; Erbele; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Kilzer; Klein; Krebsbach; Laffen; Larsen; Lee, G.; Lee, J.; Luick; Lyson; Marcellais; Mathern; Miller; Murphy; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Robinson; Schaible; Schneider; Sitte; Sorvaag; Stenehjem; Taylor; Triplett; Uglem; Wanzek; Wardner; Warner

SB 2002 passed.

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#### **SECOND READING OF SENATE BILL**

**SB 2001:** A BILL for an Act to provide an appropriation for defraying the expenses of the office of the governor; to amend and reenact sections 54-07-04 and 54-08-03 of the North Dakota Century Code, relating to the salaries of the governor and lieutenant governor; and to declare an emergency.

#### **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 47 YEAS, 0 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Berry; Bowman; Burckhard; Christmann; Cook; Dever; Dotzenrod; Erbele; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Kilzer; Klein; Krebsbach; Laffen; Larsen; Lee, G.; Lee, J.; Luick; Lyson; Marcellais; Mathern; Miller; Murphy; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Robinson; Schaible; Schneider; Sitte; Sorvaag; Stenehjem; Taylor; Triplett; Uglem; Wanzek; Wardner; Warner

SB 2001 passed and the emergency clause was declared carried.

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#### **SECOND READING OF SENATE BILL**

**SB 2331:** A BILL for an Act to create and enact a new section to chapter 57-38 and a new subdivision to subsection 7 of section 57-38-30.3 of the North Dakota Century Code, relating to an income tax credit for employment of individuals with disabilities; and to provide an effective date.

#### **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 47 YEAS, 0 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Berry; Bowman; Burckhard; Christmann; Cook; Dever; Dotzenrod; Erbele; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Kilzer; Klein; Krebsbach; Laffen; Larsen; Lee, G.; Lee, J.; Luick; Lyson; Marcellais; Mathern; Miller; Murphy; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Robinson; Schaible; Schneider; Sitte; Sorvaag; Stenehjem; Taylor; Triplett; Uglem; Wanzek; Wardner; Warner

Engrossed SB 2331 passed.

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#### SECOND READING OF SENATE BILL

**SB 2272:** A BILL for an Act to provide an appropriation relating to the North Dakota cultural heritage initiative; and to declare an emergency.

#### ROLL CALL

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO NOT PASS, the roll was called and there were 14 YEAS, 33 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Dotzenrod; Heckaman; Marcellais; Mathern; Miller; Murphy; Nelson; O'Connell; Robinson; Schneider; Taylor; Triplett; Warner

**NAYS:** Berry; Bowman; Burckhard; Christmann; Cook; Dever; Erbele; Fischer; Flakoll; Freborg; Grindberg; Hogue; Holmberg; Kilzer; Klein; Krebsbach; Laffen; Larsen; Lee, G.; Lee, J.; Luick; Lyson; Nething; Nodland; Oehlke; Olafson; Schaible; Sitte; Sorvaag; Stenehjem; Uglem; Wanzek; Wardner

Engrossed SB 2272 lost.

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#### SECOND READING OF SENATE BILL

**SB 2363:** 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 determination of stripper well status on an individual well basis under the oil extraction tax; and to provide an effective date.

#### MOTION

**SEN. TRIPLETT MOVED** that SB 2363 be amended as follows.

Page 1, line 1, remove "subsection 4 of section 38-08-04,"

Page 1, line 2, remove ", and subsection 1 of section 57-51.1-03.1"

Page 1, line 3, remove "annual"

Page 1, remove lines 6 through 15

Page 1, line 19, replace "during days of normal recovery operations" with "at the well's maximum efficient rate"

Page 1, line 24, remove the overstrike over "~~any preceding consecutive twelve month~~"

Page 2, line 1, remove the overstrike over "~~period~~"

Page 2, line 1, remove "the most recent calendar year certified by the industrial commission"

Page 2, line 4, overstrike "property"

Page 2, remove lines 6 through 14

Page 2, line 15, replace "taxable events occurring" with "wells certified as stripper wells"

Renumber accordingly

#### REQUEST

**SEN. WARNER REQUESTED** a verification vote on the motion to adopt the proposed amendments to SB 2363, which request was granted.

The proposed amendments to SB 2363 failed on a verification vote.

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

**YEAS:** Dotzenrod; Heckaman; Marcellais; Mathern; Murphy; Nelson; Robinson; Schneider; Taylor; Triplett; Warner

**NAYS:** Andrist; Berry; Bowman; Burckhard; Christmann; Cook; Dever; Erbele; Fischer; Flakoll; Freborg; Grindberg; Hogue; Holmberg; Kilzer; Klein; Krebsbach; Laffen; Larsen; Lee, G.; Lee, J.; Luick; Lyson; Miller; Nething; Nodland; O'Connell; Oehlke; Olafson; Schaible; Sitte; Sorvaag; Stenehjerm; Uglem; Wanzek; Wardner

SB 2363 lost.

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#### SECOND READING OF SENATE BILL

**SB 2022:** A BILL for an Act to provide an appropriation for defraying the expenses of various state retirement and investment agencies; to provide an exemption; to provide various transfers; 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 47 YEAS, 0 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Berry; Bowman; Burckhard; Christmann; Cook; Dever; Dotzenrod; Erbele; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Kilzer; Klein; Krebsbach; Laffen; Larsen; Lee, G.; Lee, J.; Luick; Lyson; Marcellais; Mathern; Miller; Murphy; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Robinson; Schaible; Schneider; Sitte; Sorvaag; Stenehjerm; Taylor; Triplett; Uglem; Wanzek; Wardner; Warner

SB 2022 passed and the emergency clause was declared carried.

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#### SECOND READING OF SENATE BILL

**SB 2324:** A BILL for an Act to amend and reenact section 39-12-05.3 of the North Dakota Century Code, relating to a ten percent weight permit for certain 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 2 YEAS, 45 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Oehlke; Schaible

**NAYS:** Andrist; Berry; Bowman; Burckhard; Christmann; Cook; Dever; Dotzenrod; Erbele; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Kilzer; Klein; Krebsbach; Laffen; Larsen; Lee, G.; Lee, J.; Luick; Lyson; Marcellais; Mathern; Miller; Murphy; Nelson; Nething; Nodland; O'Connell; Olafson; Robinson; Schneider; Sitte; Sorvaag; Stenehjerm; Taylor; Triplett; Uglem; Wanzek; Wardner; Warner

SB 2324 lost.

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**SECOND READING OF SENATE BILL**

**SB 2328:** A BILL for an Act to amend and reenact subsection 3 of section 39-05-17.2 of the North Dakota Century Code, relating to body damage disclosure on titles to motor 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 6 YEAS, 41 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Christmann; Cook; Hogue; Holmberg; Larsen; Miller

**NAYS:** Andrist; Berry; Bowman; Burckhard; Dever; Dotzenrod; Erbele; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Kilzer; Klein; Krebsbach; Laffen; Lee, G.; Lee, J.; Luick; Lyson; Marcellais; Mathern; Murphy; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Robinson; Schaible; Schneider; Sitte; Sorvaag; Stenehjerm; Taylor; Triplett; Uglem; Wanzek; Wardner; Warner

SB 2328 lost.

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**SECOND READING OF SENATE BILL**

**SB 2308:** A BILL for an Act to create and enact a new subdivision to subsection 3 of section 39-12-02 and a new subsection to section 39-12-02 of the North Dakota Century Code, relating to special permits for oversize and overweight vehicles and a motor carrier electronic permit transaction fund; to provide for a continuing appropriation; and to declare an emergency.

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

**YEAS:** Andrist; Berry; Burckhard; Christmann; Cook; Dever; Dotzenrod; Erbele; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Kilzer; Klein; Krebsbach; Laffen; Larsen; Lee, G.; Lee, J.; Luick; Marcellais; Mathern; Miller; Murphy; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Robinson; Schaible; Schneider; Sitte; Sorvaag; Stenehjerm; Taylor; Triplett; Uglem; Wanzek; Wardner; Warner

**NAYS:** Bowman; Lyson

Engrossed SB 2308 passed and the emergency clause was declared carried.

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**MOTION**

**SEN. CHRISTMANN MOVED** that SCR 4003 be placed at the top of the Eleventh order, which motion prevailed.

**SECOND READING OF SENATE CONCURRENT RESOLUTION**

**SCR 4003:** A concurrent resolution supporting the Northern Tier Network Technology Initiative and the related activities of the Legislative Management's Information Technology Committee.

The question being on the final adoption of the amended resolution, which has been read, and has committee recommendation of DO PASS.

Engrossed SCR 4003 was declared adopted on a voice vote.

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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 2005, SB 2007, SB 2011, SB 2060, SB 2062, SB 2122, SB 2185, SB 2321, SB 2366.

**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 2023, SB 2227.

**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 1091, HB 1213, HB 1214, HB 1232, HB 1266, HB 1297, HB 1310, HB 1375, HB 1428, HB 1436, HB 1450, HB 1452, HCR 3008, HCR 3010, HCR 3032, HCR 3034.

**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 1335, HB 1337.

**MOTION**

**SEN. CHRISTMANN MOVED** that the Senate be on the Fourth, Fifth, and Ninth orders of business and at the conclusion of those orders, the Senate stand adjourned until 12:30 p.m., Tuesday, February 15, 2011, which motion prevailed.

**REPORT OF STANDING COMMITTEE**

**SB 2003: Appropriations Committee (Sen. Holmberg, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2003 was placed on the Sixth order on the calendar.

Page 1, line 3, remove the third "and"

Page 1, line 4, replace "section" with "sections 12-60-25,"

Page 1, line 4, after "54-12-11" insert ", and 57-43.1-03.2"

Page 1, line 4, after "to" insert "missing children,"

Page 1, line 5, after "general" insert ", and refunds of tax for fuel purchased by native Americans; to provide an exemption; and to declare an emergency"

Page 2, after line 20, insert:

**"SECTION 4. AMENDMENT.** Section 12-60-25 of the North Dakota Century Code is amended and reenacted as follows:

**12-60-25. Lost, missing, or runaway children.**

The bureau shall:

1. ~~Establish and maintain a statewide file system for the purpose of effecting an immediate law enforcement response to reports of lost, missing, or runaway children.~~
2. Implement a data exchange system to compile, to maintain, and to make available for dissemination to North Dakota and to out-of-state law enforcement agencies, descriptive information that can assist appropriate agencies in recovering lost, missing, or runaway children through the national crime information center.
- ~~3-2.~~ Establish contacts and exchange information regarding lost, missing, or runaway children with the national crime information center.
- ~~4-3.~~ Notify all enforcement agencies that reports of lost, missing, or runaway children must be entered as soon as the minimum level of data specified by

the bureau is available to the reporting agency and that no waiting period for entry of such data exists. If the enforcement agency is unable to enter the data, the bureau immediately upon notification shall enter the information into the national crime information center file.

- 5.4. Compile and retain information regarding lost, missing, or runaway children ~~in a separate file~~, in a manner that allows the information to be used by law enforcement and other agencies, considered appropriate by the bureau, for investigative purposes. The reporting law enforcement agency is responsible for maintaining the disposition of the case and ~~periodically shall review the case with the reporting party and the bureau to ensure all available information is included and to determine the current status of the case.~~
- 6.5. Provide prompt confirmation of the receipt and entry of lost, missing, or runaway children reports ~~into the file system~~ to the enforcement agency providing the report or to the parent, guardian, or identified family member as provided in subsection 7.6.
- 7.6. Allow any parent, guardian, or identified family member to submit a lost, missing, or runaway child report to the bureau which will be ~~included in the bureau file system and~~ transmitted to the national crime information center, if they are unable to receive services from the local law enforcement agency.
- 8.7. Compile and maintain a historical ~~data repository~~ information relating to lost, missing, or runaway children for all of the following purposes:
  - a. To develop and improve techniques utilized by law enforcement agencies when responding to reports of lost, missing, or runaway children.
  - b. To provide a factual and statistical base for research which would address the problem of lost, missing, or runaway children."

Page 3, after line 10, insert:

**"SECTION 8. AMENDMENT.** Section 57-43.1-03.2 of the North Dakota Century Code is amended and reenacted as follows:

**57-43.1-03.2. Refund of tax for fuel purchased by native Americans - Fuels tax refund reserve fund - Continuing appropriation.**

1. A native American may file a claim with the tax commissioner for a refund of motor vehicle fuel taxes paid by that person under this chapter or special fuel taxes paid under chapter 57-43.2 if the motor vehicle fuel or special fuel was purchased from a retail fuel dealer located on the Indian reservation where the native American is an enrolled member and the fuel was delivered to the native American on that reservation. The refund provisions of this chapter apply to refund claims made under this section.
2. A fuels tax refund reserve fund is created as a special fund in the state treasury. The tax commissioner shall deposit in that fund such amounts from motor vehicle fuel tax and special fuel tax collections as ~~the attorney-general determines~~ necessary to be expended for refunds to which native American government entities may be entitled under qualifying circumstances and conditions determined by the attorney general. There is appropriated as a continuing appropriation out of funds set aside under this subsection so much of the funds as ~~the attorney-general determines~~ is necessary to meet the expenditures authorized under this subsection and such funds may be expended for that purpose.

**SECTION 9. ATTORNEY GENERAL REFUND FUND TRANSFER TO THE GENERAL FUND - EXEMPTION.** Notwithstanding section 54-12-18, the attorney

general may retain the balance in the attorney general refund fund that would otherwise be transferred to the general fund on June 30, 2011.

**SECTION 10. EMERGENCY.** Section 9 of this Act is declared to be an emergency measure."

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**SB 2048: Finance and Taxation Committee (Sen. Cook, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (4 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). SB 2048 was placed on the Sixth order on the calendar.

Page 1, line 2, replace "exclusion of" with "benefits received by"

Page 1, line 4, replace "exclusion of" with "benefits received by"

Page 1, line 9, replace "be included in" with "receive benefits through"

Page 1, line 11, replace "part of" with "receiving benefits through"

Page 2, line 18, replace "included in" with "receiving benefits through"

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**SB 2109: Government and Veterans Affairs Committee (Sen. Dever, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2109 was placed on the Sixth order on the calendar.

Page 1, line 2, replace the first comma with "and"

Page 1, line 2, replace the first "and" with "subsection 3 of section 54-52-02.1, section"

Page 8, after line 6, insert:

**"SECTION 5. AMENDMENT.** Subsection 3 of section 54-52-02.1 of the North Dakota Century Code is amended and reenacted as follows:

3. Notwithstanding any other provision of this chapter, a political subdivision of this state not currently participating in the public employees retirement system may not become a participant in the retirement system until an actuarial study is performed under the direction of the board to calculate the required employer contribution. The for any past service liability and the required employer contribution must be an amount determined sufficient to fund the normal cost and amortize and fund any past service liability over a period not to exceed thirty years as determined by the board. Any fees incurred in performing the actuarial study must be paid for by the political subdivision in a manner determined by the board."

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**SB 2119: 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 2119 was placed on the Sixth order on the calendar.

Page 5, line 14, replace "5-Methoxy-N,N-Dimethyltryptamine" with "5-Methoxy-N,N-Dimethyltryptamine"

Page 7, line 2, after "chemicals" insert "and chemical groups"



Page 7, replace lines 5 through 17 with:

- "(1) Naphthoylindoles. Any compound containing a 3-(1-naphthoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent. Examples include:
- (a) 1-Pentyl-3-(1-naphthoyl)indole - Other names: JWH-018 and AM-678.
  - (b) 1-Butyl-3-(1-naphthoyl)indole - Other names: JWH-073.
  - (c) 1-Pentyl-3-(4-methoxy-1-naphthoyl)indole - Other names: JWH-081.
  - (d) 1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl)indole - Other names: JWH-200.
  - (e) 1-Propyl-2-methyl-3-(1-naphthoyl)indole - Other names: JWH-015.
  - (f) 1-Hexyl-3-(1-naphthoyl)indole - Other names: JWH-019.
  - (g) 1-Pentyl-3-(4-methyl-1-naphthoyl)indole - Other names: JWH-122.
  - (h) 1-Pentyl-3-(4-ethyl-1-naphthoyl)indole - Other names: JWH-210.
  - (i) 1-Pentyl-3-(4-chloro-1-naphthoyl)indole - Other names: JWH-398.
  - (j) 1-(5-fluoropentyl)-3-(1-naphthoyl)indole - Other names: AM-2201.
- (2) Naphthylmethylindoles. Any compound containing a 1H-indol-3-yl-(1-naphthyl)methane structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent. Examples include:
- (a) 1-Pentyl-1H-indol-3-yl-(1-naphthyl)methane - Other names: JWH-175.
  - (b) 1-Pentyl-1H-indol-3-yl-(4-methyl-1-naphthyl)methane - Other names: JWH-184.
- (3) Naphthoylpyrroles. Any compound containing a 3-(1-naphthoyl)pyrrole structure with substitution at the nitrogen atom of the pyrrole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group whether or not further substituted in the pyrrole ring to any extent, whether or not substituted in the naphthyl ring to any extent. Examples include: (5-(2-fluorophenyl)-1-pentylpyrrol-3-yl)-naphthalen-1-ylmethanone - Other names: JWH-307.
- (4) Naphthylmethylindenenes. Any compound containing a naphthylideneindene structure with substitution at the 3 position of the indene ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl,

cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group whether or not further substituted in the indene ring to any extent, whether or not substituted in the naphthyl ring to any extent. Examples include:  
E-1-[1-(1-Naphthalenylmethylene)-1H-inden-3-yl]pentane - Other names: JWH-176.

- (5) Phenylacetylindoles. Any compound containing a 3-phenylacetylindole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group whether or not further substituted in the indole ring to any extent, whether or not substituted in the phenyl ring to any extent. Examples include:
- (a) 1-(2-cyclohexylethyl)-3-(2-methoxyphenylacetyl)indole - Other names: RCS-8.
- (b) 1-Pentyl-3-(2-methoxyphenylacetyl)indole - Other names: JWH-250.
- (c) 1-Pentyl-3-(2-methylphenylacetyl)indole - Other names: JWH-251.
- (d) 1-Pentyl-3-(2-chlorophenylacetyl)indole - Other names: JWH-203.
- (6) Cyclohexylphenols. Any compound containing a 2-(3-hydroxycyclohexyl)phenol structure with substitution at the 5-position of the phenolic ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group whether or not substituted in the cyclohexyl ring to any extent. Examples include:
- (a) 5-(1,1-dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol - Other names: CP 47,497.
- (b) 5-(1,1-dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol - Other names: Cannabicyclohexanol and CP 47,497 C8 homologue.
- (c) 5-(1,1-dimethylheptyl)-2-[(1R,2R)-5-hydroxy-2-(3-hydroxypropyl)cyclohexyl]-phenol - Other names: CP 55,940.
- (7) Benzoylindoles. Any compound containing a 3-(benzoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent. Examples include:
- (a) 1-Pentyl-3-(4-methoxybenzoyl)indole - Other names: RCS-4.
- (b) 1-(5-fluoropentyl)-3-(2-iodobenzoyl)indole - Other names: AM-694.
- (c) (4-Methoxyphenyl)-[2-methyl-1-(2-(4-morpholinyl)ethyl)indol-3-yl]methanone - Other names: WIN 48,098 and Pravadoline.
- (8) Others specifically named:
- (a) (6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol - Other names: HU-210.

(b) (6aS,10aS)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol - Other names: Dexanabinol and HU-211.

(c) 2,3-Dihydro-5-methyl-3-(4-morpholinylmethyl)pyrrolo[1,2,3-de]-1,4-benzoxazin-6-yl]-1-napthalenylmethanone - Other names: WIN 55,212-2."

Page 12, after line 12, insert:

"c. Immediate precursors to fentanyl: 4-anilino-N-phenethyl-4-piperidine (ANPP)."

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**SB 2124: 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 2124 was placed on the Sixth order on the calendar.

Page 1, line 1, after "enact" insert "two new subsections to section 13-04.1-01.1,"

Page 1, line 1, after "13-04.1-04.2" insert a comma

Page 1, line 2, after the second "to" insert "the definition of a net branch and net branching arrangement,"

Page 1, line 6, after "13-10-03" insert "and subsection 6 of section 13-10-16"

Page 1, after line 12, insert:

**"SECTION 1.** Two new subsections to section 13-04.1-01.1 of the North Dakota Century Code are created and enacted as follows:

"Net branch" means an office at which a licensed money broker allows a separate person that does not hold a valid North Dakota money brokers license to originate loans under the license of the money broker.

"Net branch arrangement" means an arrangement under which a licensed money broker enters an agreement whereby its designated branch manager has the appearance of ownership of the licensee by, among other things, sharing in the profits or losses, establishing, leasing, or renting the branch premises, entering other contractual relationships with vendors such as for telephones, utilities, and advertising, having control of a corporate checkbook, or exercising control of personnel through the power to hire or fire such individuals. A person may be considered to be utilizing a net branch if the net branch agreement requires the branch manager to indemnify the licensee for damages from any apparent, express, or implied agency representation by or through the branch's actions or if the agreement requires the branch manager to issue a personal check to cover operating expenses whether or not funds are available from an operating account of the licensee."

Page 1, remove line 19

Page 1, line 20, remove "arrangement."

Page 2, line 17, remove "or such other amount determined by the commissioner by rule. The"

Page 2, remove lines 18 through 20

Page 2, line 21, remove "interest"

Page 3, remove lines 2 through 4

Page 3, line 5, remove "The commissioner may adopt rules with respect to the requirements for minimum net"

Page 3, replace line 6 with "If the net worth of a licensee falls below the minimum net worth set forth in subsection 1, the licensee shall provide a plan, subject to the approval of the commissioner, to increase the licensee's net worth to an amount in conformance with this section. Submission of a plan under this section must be made within twenty business days of a notice from the commissioner which states the licensee is not in compliance with subsection 1. If the licensee does not submit a plan under this section, fails to comply with an approved plan, or has repeated violations of subsection 1, the commissioner may revoke the license."

Page 3, line 17, after "ten" insert "business"

Page 10, line 26, remove "attorneys."

Page 11, line 25, replace the first "or" with an underscored comma

Page 11, line 25, after "44-04" insert ", or section 6-01-07.1."

Page 12, line 2, replace "or" with an underscored comma

Page 12, line 2, after "44-04" insert ", or section 6-01-07.1"

Page 12, line 6, remove "as established by rule or order of"

Page 12, line 7, remove "the commissioner"

Page 12, line 13, remove "private civil action or"

Page 12, after line 17, insert:

"4. The commissioner shall take all necessary steps, under any applicable law or rule, to protect the disclosure of information or material that is subject to a privilege or confidentiality under subsection 1. Records subject to a privilege or confidentiality under subsection 1 may be required to be disclosed only pursuant to an order of the court. The court ordering the disclosure shall issue a protective order to protect the confidential nature of the records."

Page 12, line 18, replace "4." with "5."

Page 12, line 18, after "44-04" insert "or section 6-01-07.1."

Page 12, line 20, after "1" insert an underscored comma

Page 12, line 24, replace "ten" with "twenty business"

Page 14, after line 21, insert:

**"SECTION 16. AMENDMENT.** Subsection 6 of section 13-10-16 of the North Dakota Century Code is amended and reenacted as follows:

6. In order to carry out the purposes of this section, the commissioner may:
  - a. Retain ~~attorneys,~~ accountants, or other professionals and specialists as examiners, auditors, or investigators to conduct or assist in the conduct of examinations or investigations;
  - b. Enter into agreements or relationships with other government officials or regulatory associations in order to improve efficiencies and reduce regulatory burden by sharing resources, standardized or uniform

methods or procedures, and documents, records, information, or evidence obtained under this section;

- c. Use, hire, contract, or employ publicly or privately available analytical systems, methods, or software to examine or investigate the licensee, individual, or person subject to this chapter;
- d. Accept and rely on examination or investigation reports made by other government officials, within or without this state; or
- e. Accept audit reports made by an independent certified public accountant for the licensee, individual, or person subject to this chapter in the course of that part of the examination covering the same general subject matter as the audit and may incorporate the audit report in the report of the examination, report of investigation, or other writing of the commissioner."

Renumber accordingly

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

**SB 2125: 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 2125 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 provide for a legislative management study of the feasibility and desirability of adopting the Uniform Electronic Recording of Custodial Interrogations Act.

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

**SECTION 1. LEGISLATIVE MANAGEMENT STUDY - UNIFORM ELECTRONIC RECORDING OF CUSTODIAL INTERROGATIONS ACT.** During the 2011-12 interim, the legislative management shall consider studying the feasibility and desirability of adopting the Uniform Electronic Recording of Custodial Interrogations Act. The legislative management shall report its findings and recommendations, together with any legislation necessary to implement the recommendations, to the sixty-third legislative assembly."

Renumber accordingly

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

**SB 2206: Natural Resources Committee (Sen. Lyson, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2206 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 create and enact two new sections to chapter 2-05 of the North Dakota Century Code, relating to rules regarding anemometer towers and to an anemometer database; and to declare an emergency.

#### **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA;**

**SECTION 1.** A new section to chapter 2-05 of the North Dakota Century Code is created and enacted as follows:

##### **Anemometer tower rules.**

The aeronautics commission shall adopt rules to become effective by May 1, 2012, which require anemometer towers to be marked to be visible to aircraft and require the location of the towers be reported to the commission in the manner determined by the commission.

**SECTION 2.** A new section to chapter 2-05 of the North Dakota Century Code is created and enacted as follows:

**Anemometer database.**

By January 1, 2012, the aeronautics commission shall establish and maintain a database to identify the locations of all existing anemometer towers. Within one hundred eighty days after the effective date of this Act, each person with an anemometer tower erected in the state shall provide the commission with the global-positioning coordinates of the center of each anemometer tower. Each person intending to erect an anemometer tower shall provide to the commission the global-positioning coordinates of the center of the tower at least fifteen days before the erection of the tower.

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

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**SB 2251: Judiciary Committee (Sen. Nething, Chairman)** recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2251 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2259: Judiciary Committee (Sen. Nething, Chairman)** recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2259 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2280: Agriculture Committee (Sen. Flakoll, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). SB 2280 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 create and enact a new subsection to section 61-21-02 and a new section to chapter 61-32 of the North Dakota Century Code, relating to subsurface drainage of water; to provide a penalty; and to declare an emergency.

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

**SECTION 1.** A new subsection to section 61-21-02 of the North Dakota Century Code is created and enacted as follows:

**The installation of artificial subsurface drainage systems.**

**SECTION 2.** A new section to chapter 61-32 of the North Dakota Century Code is created and enacted as follows:

**Permit to drain subsurface waters required - Permit form - Penalty.**

Installation of an artificial subsurface drainage system comprising eighty acres [32.37 hectares] of land area or more requires a permit. The state engineer shall develop an application form for a permit for subsurface drainage of water. A person seeking to construct an artificial subsurface drainage system must submit an application to the water resource district within which is found a majority of the land area for consideration and approval. Water resource districts may attach any necessary conditions to an approved permit, but may not deny an application unless the water resource district determines the application is of statewide significance or the proposed drainage will flood or adversely affect downstream landowners within one mile [1.61 kilometers] of the proposed subsurface drainage. Water resource districts must forward copies of all approved permits to the state engineer. Water resource districts shall determine if the application proposes drainage of statewide significance. If so, the application must be referred to the state engineer for

consideration and approval, and the state engineer shall make a determination within thirty days. The permit applicant shall provide a thirty-day notice to downstream property owners within one mile [1.61 kilometers] of the proposed subsurface drainage. If an investigation by a water resource district or a downstream landowner within one mile [1.61 kilometers] shows that the proposed drainage will flood or adversely affect lands of downstream landowners within one mile [1.61 kilometers], the water resource district may require flowage easements before issuing a permit. If an artificial subsurface drainage system drains into an assessment drain, natural watercourse, or pond, slough, or lake, a flowage easement is not required. Flowage easements must be filed for record in the office of the recorder of the county or counties in which the lands are situated. A person that installs an artificial subsurface drainage system without first securing a permit to do so, as provided in this section, is liable for all damage sustained by a person caused by the draining, and is guilty of an infraction.

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

Renumber accordingly

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

**SB 2286: Government and Veterans Affairs Committee (Sen. Dever, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). SB 2286 was placed on the Sixth order on the calendar.

Page 1, line 11, overstrike "The"

Page 1, overstrike line 12

Page 1, line 13, overstrike "include one or more members of the athletic advisory board."

Page 1, line 14, overstrike "each board" and insert immediately thereafter "the commission"

Page 1, line 14, overstrike "Board" and insert immediately thereafter "Commission"

Renumber accordingly

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

**SB 2317: Education Committee (Sen. Freborg, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2317 was placed on the Sixth order on the calendar.

Page 1, line 9, after "studies" insert "upon receipt of the application and fees required under section 15.1-13-11 and pending completion of the background check required by section 15.1-13-14."

Renumber accordingly

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

**SB 2318: Natural Resources Committee (Sen. Lyson, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2318 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 provide for a legislative management study relating to carbon dioxide storage easements and to the duration of carbon dioxide storage easements."

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

**SECTION 1. LEGISLATIVE MANAGEMENT STUDY - CARBON DIOXIDE STORAGE EASEMENTS.** The legislative management shall consider studying, during the 2011-12 interim, carbon dioxide storage easements and the duration of

carbon dioxide storage easements. The legislative management shall report its findings and recommendations, together with any legislation necessary to implement the recommendations, to the sixty-third legislative assembly."

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**SB 2327: Government and Veterans Affairs Committee (Sen. Dever, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2327 was placed on the Sixth order on the calendar.

Page 1, line 18, remove the overstrike over "state"

Page 1, line 18, overstrike "in any bona"

Page 1, line 19, overstrike "fide news story, commentary, or editorial" and insert immediately thereafter "by a public official with no expenditure of public funds or resources. This section may not limit the freedom of speech of any officer or employee of the state or a political subdivision. This section does not prohibit a public official, the state or any agency of the state, or the governing body of a political subdivision from presenting factual information solely for the purpose of educating the voters on a ballot question"

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**SB 2352: Natural Resources Committee (Sen. Lyson, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2352 was placed on the Sixth order on the calendar.

Page 1, line 9, after the underscored period insert "The term includes using any remotely controlled device to hunt the animal such as a hand-held communication device, cellular telephone, or global-positioning device."

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**SCR 4001: Judiciary Committee (Sen. Nething, Chairman)** recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SCR 4001 was placed on the Eleventh order on the calendar.

#### FIRST READING OF SENATE CONCURRENT RESOLUTIONS

Sen. Heckaman introduced:

**SCR 4023:** A concurrent resolution urging the Legislative Management to study transportation safety for minors.

Was read the first time and referred to the **Transportation Committee**.

Sens. Nething, Bowman, Nelson and Reps. Kilichowski, Pietsch introduced:

**SCR 4024:** A concurrent resolution directing the Legislative Management to study issues relating to sodium intake and legislative measures aimed at decreasing heart disease and stroke.

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**