

## JOURNAL OF THE SENATE

## Sixty-fifth Legislative Assembly

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Bismarck, January 9, 2017

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

The prayer was offered by Pastor Paul Shauer, Sunne Lutheran Church, Wilton.

The roll was called and all members were present except Senators Anderson and Davison.

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. Anderson, Chairman)** has carefully examined the Journal of the Second Day and recommends that it be corrected as follows and when so corrected, recommends that it be approved:

Page 53, line 66, after "SB 2048" delete ", as amended,"

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

## CONSIDERATION OF AMENDMENTS

**SB 2048: SEN. POOLMAN (Industry, Business and Labor Committee) MOVED** that the amendments on SJ page 53 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed on a voice vote.

## SECOND READING OF SENATE BILL

**SB 2060:** A BILL for an Act to amend and reenact subsection 2 of section 50-11.1-07.8 and subsection 2 of section 50-25.1-11 of the North Dakota Century Code, relating to parental notification of early childhood services investigations.

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

**YEAS:** Armstrong; Bekkedahl; Bowman; Burckhard; Campbell; Casper; Clemens; Cook; Dever; Dotzenrod; Erbele; Grabinger; Heckaman; Hogue; Holmberg; Kannianen; Kilzer; Klein; Krebsbach; Kreun; Laffen; Larsen, O.; Larson, D.; Lee, G.; Lee, J.; Luick; Marcellais; Mathern; Meyer; Myrdal; Nelson; Oban; Oehlke; Osland; Piepkorn; Poolman; Robinson; Roers; Rust; Schaible; Sorvaag; Unruh; Vedaa; Wanzek; Wardner

**ABSENT AND NOT VOTING:** Anderson; Davison

SB 2060 passed.

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## SECOND READING OF SENATE BILL

**SB 2090:** A BILL for an Act create and enact a new subsection to section 50-11.1-06.2 of the North Dakota Century Code, relating to criminal history record checks; to amend and reenact section 50-06-01.9, subsection 25 of section 50-11.1-02, sections 50-11.1-03, 50-11.1-04, and 50-11.1-06, subsection 1 of section 50-11.1-06.2, subsection 1 of section 50-11.1-07.2, and sections 50-11.1-12, 50-11.1-16, and 50-11.1-17 of the North Dakota Century Code, relating to early childhood services criminal record checks, licensing, definitions, registration, applications, and fees; 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 45 YEAS, 0 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

**YEAS:** Armstrong; Bekkedahl; Bowman; Burckhard; Campbell; Casper; Clemens; Cook; Dever; Dotzenrod; Erbele; Grabinger; Heckaman; Hogue; Holmberg; Kannianen; Kilzer; Klein; Krebsbach; Kreun; Laffen; Larsen, O.; Larson, D.; Lee, G.; Lee, J.; Luick; Marcellais; Mathern; Meyer; Myrdal; Nelson; Oban; Oehlke; Osland; Piepkorn; Poolman; Robinson; Roers; Rust; Schaible; Sorvaag; Unruh; Vedaa; Wanzek; Wardner

**ABSENT AND NOT VOTING:** Anderson; Davison

SB 2090 passed.

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**SECOND READING OF SENATE BILL**

**SB 2045:** A BILL for an Act to amend and reenact sections 39-12-14.1 and 39-12-20 of the North Dakota Century Code, relating to voluntary settlement of extraordinary road use fee charges and proceeds of sale deposited with the state treasurer; to provide an effective date; and to declare an emergency.

**ROLL CALL**

The question being on the final passage of the bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 45 YEAS, 0 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

**YEAS:** Armstrong; Bekkedahl; Bowman; Burckhard; Campbell; Casper; Clemens; Cook; Dever; Dotzenrod; Erbele; Grabinger; Heckaman; Hogue; Holmberg; Kannianen; Kilzer; Klein; Krebsbach; Kreun; Laffen; Larsen, O.; Larson, D.; Lee, G.; Lee, J.; Luick; Marcellais; Mathern; Meyer; Myrdal; Nelson; Oban; Oehlke; Osland; Piepkorn; Poolman; Robinson; Roers; Rust; Schaible; Sorvaag; Unruh; Vedaa; Wanzek; Wardner

**ABSENT AND NOT VOTING:** Anderson; Davison

SB 2045 passed and the emergency clause was declared carried.

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**SECOND READING OF SENATE BILL**

**SB 2109:** A BILL for an Act to amend and reenact section 24-02-02.3 of the North Dakota Century Code, relating to agreements with tribal governments.

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

**YEAS:** Armstrong; Bekkedahl; Bowman; Burckhard; Campbell; Casper; Clemens; Cook; Dever; Dotzenrod; Erbele; Grabinger; Heckaman; Hogue; Holmberg; Kannianen; Kilzer; Klein; Krebsbach; Kreun; Laffen; Larsen, O.; Larson, D.; Lee, G.; Lee, J.; Luick; Marcellais; Mathern; Meyer; Myrdal; Nelson; Oban; Oehlke; Osland; Piepkorn; Poolman; Robinson; Roers; Rust; Schaible; Sorvaag; Unruh; Vedaa; Wanzek; Wardner

**ABSENT AND NOT VOTING:** Anderson; Davison

SB 2109 passed.

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**SECOND READING OF SENATE BILL**

**SB 2089:** A BILL for an Act to amend and reenact section 23-34-01 of the North Dakota Century Code, relating to medical peer reviews.

**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; Armstrong; Bekkedahl; Bowman; Burckhard; Campbell; Casper; Clemens; Cook; Dever; Dotzenrod; Erbele; Grabinger; Heckaman; Hogue; Holmberg; Kannianen; Kilzer; Klein; Krebsbach; Kreun; Laffen; Larsen, O.; Larson, D.; Lee, G.; Lee, J.; Luick; Marcellais; Mathern; Meyer; Myrdal; Nelson; Oban; Oehlke; Osland; Piepkorn; Poolman; Robinson; Roers; Rust; Schaible; Sorvaag; Unruh; Vedaa; Wanzek; Wardner

**ABSENT AND NOT VOTING:** Davison

SB 2089 passed.

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**SECOND READING OF SENATE BILL**

**SB 2050:** A BILL for an Act to amend and reenact subsection 1 of section 37-17.3-02.2 of the North Dakota Century Code, relating to the statewide interoperability executive committee.

**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; Armstrong; Bekkedahl; Bowman; Burckhard; Campbell; Casper; Clemens; Cook; Dever; Dotzenrod; Erbele; Grabinger; Heckaman; Hogue; Holmberg; Kannianen; Kilzer; Klein; Krebsbach; Kreun; Laffen; Larsen, O.; Larson, D.; Lee, G.; Lee, J.; Luick; Marcellais; Mathern; Meyer; Myrdal; Nelson; Oban; Oehlke; Osland; Piepkorn; Poolman; Robinson; Roers; Rust; Schaible; Sorvaag; Unruh; Vedaa; Wanzek; Wardner

**ABSENT AND NOT VOTING:** Davison

SB 2050 passed.

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**SECOND READING OF SENATE BILL**

**SB 2051:** A BILL for an Act to amend and reenact subsection 6 of section 53-06.2-11 of the North Dakota Century Code, relating to distributions from the breeders' fund.

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

**YEAS:** Anderson; Armstrong; Bekkedahl; Bowman; Burckhard; Campbell; Casper; Clemens; Cook; Dever; Dotzenrod; Erbele; Grabinger; Heckaman; Hogue; Holmberg; Kannianen; Kilzer; Klein; Krebsbach; Kreun; Laffen; Larsen, O.; Larson, D.; Lee, G.; Lee, J.; Luick; Marcellais; Mathern; Meyer; Myrdal; Nelson; Oban; Oehlke; Osland; Poolman; Robinson; Roers; Rust; Schaible; Sorvaag; Unruh; Vedaa; Wanzek; Wardner

**NAYS:** Piepkorn

**ABSENT AND NOT VOTING:** Davison

SB 2051 passed.

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

**SB 2086:** A BILL for an Act to create and enact a new section to chapter 40-06 of the North Dakota Century Code, relating to participation in city governing body meetings by residents of areas within the extraterritorial zoning jurisdiction of the city; and to amend and reenact section 40-21-01 of the North Dakota Century Code, relating to qualified electors in city elections.

### **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:** Larsen, O.; Poolman; Rust; Unruh

**NAYS:** Anderson; Armstrong; Bekkedahl; Bowman; Burckhard; Campbell; Casper; Clemens; Cook; Dever; Dotzenrod; Erbele; Grabinger; Heckaman; Hogue; Holmberg; Kannianen; Kilzer; Klein; Krebsbach; Kreun; Laffen; Larson, D.; Lee, G.; Lee, J.; Luick; Marcellais; Mathern; Meyer; Myrdal; Nelson; Oban; Oehlke; Osland; Piepkorn; Robinson; Roers; Schaible; Sorvaag; Vedaa; Wanzek; Wardner

**ABSENT AND NOT VOTING:** Davison

SB 2086 failed.

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### **MESSAGE TO THE HOUSE FROM THE SENATE (SHANDA MORGAN, SECRETARY)**

**MR. SPEAKER:** The Senate has passed, and your favorable consideration is requested on: SB 2091, SB 2093, SB 2094.

### **MOTION**

**SEN. KLEIN MOVED** that the absent members be excused, which motion prevailed.

### **MOTION**

**SEN. KLEIN MOVED** that the Senate be on the Fifth, Seventh, and Ninth orders of business and at the conclusion of those orders, the Senate stand adjourned until 1:00 p.m., Tuesday, January 10, 2017, which motion prevailed.

### **REPORT OF STANDING COMMITTEE**

**SB 2043: Judiciary Committee (Sen. Armstrong, Chairman)** recommends **DO NOT PASS** (4 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2043 was placed on the Eleventh order on the calendar.

### **REPORT OF STANDING COMMITTEE**

**SB 2049: Government and Veterans Affairs Committee (Sen. Poolman, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2049 was placed on the Sixth order on the calendar.

Page 1, line 2, replace "subsection 1 of section" with "sections"

Page 1, line 2, remove the second "section"

Page 1, line 5, after "tax" insert "; and to provide an effective date"

Page 3, replace lines 1 through 5 with:

**"SECTION 5. AMENDMENT.** Section 57-43.3-03 of the North Dakota Century Code is amended and reenacted as follows:

**57-43.3-03. Refund of tax.**

1. A consumer who paid the tax imposed by section 57-43.3-02 may file a claim for a refund with the commissioner pursuant to the refund provisions in chapter 57-43.1. ~~The tax imposed by section 57-43.3-04 must be deducted from the refund.~~
2. Any person to whom aviation fuel is sold on which the tax imposed by this chapter has been paid who thereafter removes the fuel from this state for sale or resale in another state or to a state that requires payment of a tax upon the use of the fuel in that state must be granted a refund of the tax that was paid pursuant to this chapter. The refund may be granted only upon application to the commissioner in the manner prescribed by the commissioner and must include proof that fuel for sale or resale in another state was reported to the taxing agency of that state, or in the case of a consumer, proof of payment of the tax imposed by the other state. A claim for refund under this section must be made within one year from the date the fuel was removed to another state for sale, resale, or use in another state.
3. When a person purchasing aviation fuel for resale purposes pays the tax imposed by this chapter and later makes a sale of the fuel to an agency of the United States government, the person may apply to the commissioner for a refund of the tax.
4. The tax commissioner shall deposit in a fund known as the aviation fuel tax refund reserve, such amounts from aviation fuel tax collections as the commissioner deems necessary to pay refunds to persons entitled to refunds under this section.

Page 3, line 9, overstrike "pursuant to" and insert immediately thereafter "under"

Page 3, line 10, overstrike "deposited in"

Page 3, line 11, overstrike "the office of" and insert immediately thereafter "transferred to"

Page 3, after line 20, insert:

**"SECTION 8. EFFECTIVE DATE.** Sections 4 and 7 of this Act are effective for taxable purchases made after June 30, 2017."

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**SB 2052: Human Services Committee (Sen. J. Lee, Chairman)** recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2052 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2053: Government and Veterans Affairs Committee (Sen. Poolman, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2053 was placed on the Sixth order on the calendar.

Page 1, line 1, after "reenact" insert "subsection 4 of section 39-03.1-11.2,"

Page 1, line 2, after the first comma insert "subsection 4 of section 54-52-28,"

Page 1, after line 12, insert:

**"SECTION 1. AMENDMENT.** Subsection 4 of section 39-03.1-11.2 of the North Dakota Century Code is amended and reenacted as follows:

4. The rollover rules under section 401(a)(31) of the Internal Revenue Code. Accordingly, a distributee may elect to have an eligible rollover

distribution, as defined in section 402(c)(4) of the Internal Revenue Code, paid in a direct rollover to an eligible retirement plan, as defined in section 402(c)(8)(B) of the Internal Revenue Code, specified by the distributee. For purposes of this section, "distributee" includes a beneficiary, other than a spouse, of a deceased member, provided however, in the case of a beneficiary other than a spouse, the direct rollover may be made only to an individual retirement account or individual retirement annuity described in section 408 or 408A of the Internal Revenue Code which is established on behalf of the beneficiary and will be treated as an inherited individual retirement account or individual retirement annuity under section 402(c)(11) of the Internal Revenue Code."

Page 12, after line 3, insert:

**"SECTION 5. AMENDMENT.** Subsection 4 of section 54-52-28 of the North Dakota Century Code is amended and reenacted as follows:

4. The rollover rules under section 401(a)(31) of the Internal Revenue Code. Accordingly, a distributee may elect to have an eligible rollover distribution, as defined in section 402(c)(4) of the Internal Revenue Code, paid in a direct rollover to an eligible retirement plan, as defined in section 402(c)(8)(B) of the Internal Revenue Code, specified by the distributee. For purposes of this section, "distributee" includes a beneficiary, other than a spouse, of a deceased member, provided however, in the case of a beneficiary other than a spouse, the direct rollover may be made only to an individual retirement account or individual retirement annuity described in section 408 or 408A of the Internal Revenue Code which is established on behalf of the beneficiary and will be treated as an inherited individual retirement account or individual retirement annuity under section 402(c)(11) of the Internal Revenue Code."

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**SB 2096: Judiciary Committee (Sen. Armstrong, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2096 was placed on the Sixth order on the calendar.

Page 4, line 2, replace the underscored period with an underscored comma

Page 4, line 4, replace the underscored period with an underscored comma

Page 4, line 29, after the first underscored closing parenthesis insert an underscored hyphen

Page 4, line 29, replace "Butyrvl" with "Butyryl"

Page 5, line 7, replace "Acrvlfentanyl" with "Acrylfentanyl"

Page 5, line 9, replace "Valervl" with "Valeryl"

Page 11, line 6, replace "Hindazole" with "H-indazole"

Page 11, line 7, replace "ADBCHMINACA" with "ADB-CHMINACA"

Page 11, after line 7, insert:

[17] Methyl  
2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-  
3,3-dimethylbutanoate - Other names: 5F-ADB and  
5F-MDMB-PINACA.

- [18] N-(adamantan-1-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide - Other names: 5F-APINACA and 5F-AKB48.
- [19] Methyl 2-(1-(cyclohexylmethyl)-1H-indole-3-carboxamido)-3,3-dimethylbutanoate - Other names: MDMB-CHMICA and MMB-CHMINACA.
- [20] Methyl 2-(1-(4-fluorobenzyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate - Other names: MDMB-FUBINACA.

Page 20, line 1, replace "a" with "alpha"

Page 27, line 16, after "Epidiolex" insert "or its successor name as determined by the United States food and drug administration"

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**SB 2099: Human Services Committee (Sen. J. Lee, Chairman)** recommends **DO PASS** (6 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). SB 2099 was placed on the Eleventh order on the calendar.

#### REPORT OF STANDING COMMITTEE

**SB 2112: Finance and Taxation Committee (Sen. Cook, Chairman)** recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2112 was placed on the Eleventh order on the calendar.

#### REPORT OF STANDING COMMITTEE

**SB 2114: Human Services Committee (Sen. J. Lee, Chairman)** recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2114 was placed on the Eleventh order on the calendar.

#### REPORT OF STANDING COMMITTEE

**SB 2117: Judiciary Committee (Sen. Armstrong, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2117 was placed on the Sixth order on the calendar.

Page 3, line 5, remove "The department shall provide a copy of any response"

Page 3, remove line 6

Renumber accordingly

#### FIRST READING OF SENATE BILLS

Sens. Kreun, Campbell and Reps. D. Anderson, Sukut introduced:

**SB 2148:** A BILL for an Act to create and enact a new subsection to section 40-16-03 of the North Dakota Century Code, relating to training for city auditors; and to provide an effective date.

Was read the first time and referred to the **Political Subdivisions Committee**.

Sens. Armstrong, D. Larson and Reps. Klemm, P. Anderson introduced:

**SB 2149:** A BILL for an Act to amend and reenact subdivision k of subsection 3 of section 12.1-23-05, subdivision b of subsection 1 of section 12.1-32-02.1, subsection 3 of section 19-03.1-22.2, section 19-03.1-23, subsection 2 of section 19-03.1-23.1, section 19-03.1-23.4, paragraph 3 of subdivision e of subsection 1 of section 19-03.1-36, subdivision e of subsection 5 of section 19-03.1-36, subsection 1 of section 19-03.1-45, and subsection 29 of section 40-05-02 of the North Dakota Century Code, relating to grading of theft offenses, illegal possession of prescription capsules, pills, or tablets, possession of marijuana, and misdemeanor marijuana convictions being excluded as prior offenses for purposes of determining mandatory terms of imprisonment; and to provide a penalty.

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

Sens. Rust, Schaible, Vedaa and Reps. Longmuir, Monson, Sanford introduced:

**SB 2150:** A BILL for an Act to amend and reenact subsection 2 of section 15.1-36-06 of the North Dakota Century Code, relating to school construction loans.

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

Sens. Holmberg, Armstrong, Myrdal and Reps. K. Koppelman, Vetter introduced:

**SB 2151:** A BILL for an Act to amend and reenact section 23-06.5-17 of the North Dakota Century Code, relating to health care directives.

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

Sens. Laffen, Hogue, Poolman and Reps. Kasper, Nathe, Delmore introduced:

**SB 2152:** A BILL for an Act to create and enact a new section to chapter 44-04 of the North Dakota Century Code, relating to public employment hiring practices and confidentiality of some applications.

Was read the first time and referred to the **Government and Veterans Affairs Committee**.

Sens. Nelson, J. Lee, Grabinger and Reps. Porter, Weisz, Hanson introduced:

**SB 2153:** A BILL for an Act to amend and reenact section 14-10-17.1 of the North Dakota Century Code, relating to emergency care for minors.

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

Sens. Wardner, Heckaman and Reps. Carlson, Mock introduced:

**SB 2154:** A BILL for an Act to provide for suspension of certain provisions of the North Dakota Compassionate Care Act; to provide a contingent expiration date; and to declare an emergency.

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

Sen. Klein and Rep. Weisz introduced:

**SB 2155:** A BILL for an Act to amend and reenact sections 20.1-01-06 and 20.1-01-34, subsection 11 of section 20.1-02-05, and section 20.1-15-01 of the North Dakota Century Code, relating to hunting with an airbow, prohibiting hunting with an airbow while intoxicated, and testing airbow hunters for intoxicating substances.

Was read the first time and referred to the **Energy and Natural Resources Committee**.

Sens. Klein, Burckhard, Robinson and Reps. J. Nelson, Pollert, Weisz introduced:

**SB 2156:** A BILL for an Act to amend and reenact section 23-20.2-09 of the North Dakota Century Code, relating to disposal of radioactive waste material.

Was read the first time and referred to the **Political Subdivisions Committee**.

Sens. Campbell, Kreun, Roers, Rust and Reps. Monson, D. Ruby introduced:

**SB 2157:** A BILL for an Act to amend and reenact subsection 2 of section 57-02-11 of the North Dakota Century Code, relating to election by a city having a class I assessor to maintain its property assessment records.

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

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

**Shanda Morgan, Secretary**