

JOURNAL OF THE SENATE

Sixty-sixth Legislative Assembly

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Bismarck, February 6, 2019

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

The prayer was offered by Pastor Craig Schweitzer, Good Shepherd Lutheran Church, Bismarck.

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

Page 394, replace lines 19 through 24 with:

"Page 2, line 12, remove the overstrike over ~~"Vaccinated animal" means an animal that has been vaccinated in compliance with the~~ and insert immediately thereafter "2016"

Page 2, remove the overstrike over lines 13 and 14"

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

MOTION

SEN. VEDAA MOVED that the Senate reconsider its action whereby SB 2180 failed to pass, which motion prevailed on a verification vote.

SECOND READING OF SENATE BILL

SB 2180: A BILL for an Act to amend and reenact section 39-34-06 of the North Dakota Century Code, relating to regulation of transportation network companies operating at commercial service airports.

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 21 YEAS, 26 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

YEAS: Anderson; Bakke; Burckhard; Davison; Dotzenrod; Dwyer; Grabinger; Heckaman; Hogan; Krebsbach; Kreun; Larson, D.; Lee, J.; Mathern; Oban; Piepkorn; Robinson; Roers, J.; Roers, K.; Sorvaag; Vedaa

NAYS: Bekkedahl; Clemens; Cook; Dever; Elkin; Erbele; Fors; Hogue; Holmberg; Kannianen; Klein; Larsen, O.; Lee, G.; Luick; Marcellais; Meyer; Myrdal; Oehlke; Osland; Patten; Poolman; Rust; Schaible; Unruh; Wanzek; Wardner

SB 2180 failed.

CONSIDERATION OF AMENDMENTS

SB 2265: SEN. SCHAIBLE (Education Committee) MOVED that the amendments on SJ pages 413-417 be adopted and then be **REREFERRED** to the **Appropriations Committee** with **DO PASS**, which motion prevailed on a voice vote.

SB 2265 was rereferred to the **Appropriations Committee**.

CONSIDERATION OF AMENDMENTS

SB 2300: SEN. DAVISON (Education Committee) MOVED that the amendments on SJ page 417 be adopted and then be **REREFERRED** to the **Appropriations Committee** with **DO PASS**, which motion prevailed on a voice vote.

SB 2300 was rereferred to the **Appropriations Committee**.

CONSIDERATION OF AMENDMENTS

SB 2317: SEN. K. ROERS (Human Services Committee) MOVED that the amendments on SJ pages 417-418 be adopted and then be **REREFERRED** to the **Appropriations Committee** with **DO PASS**, which motion prevailed on a voice vote.

SB 2317 was rereferred to the **Appropriations Committee**.

CONSIDERATION OF AMENDMENTS

SB 2352: SEN. PATTEN (Finance and Taxation Committee) MOVED that the amendments on SJ pages 419-420 be adopted and then be placed on the Eleventh order with **DO NOT PASS**, which motion prevailed on a voice vote.

CONSIDERATION OF AMENDMENTS

SB 2214: SEN. SCHAIABLE (Education Committee) MOVED that the amendments on SJ page 410 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed on a voice vote.

CONSIDERATION OF AMENDMENTS

SB 2215: SEN. DAVISON (Education Committee) MOVED that the amendments on SJ pages 411-413 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed on a voice vote.

CONSIDERATION OF AMENDMENTS

SB 2318: SEN. BURCKHARD (Political Subdivisions Committee) MOVED that the amendments on SJ pages 418-419 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed on a voice vote.

CONSIDERATION OF AMENDMENTS

SB 2110: SEN. J. LEE (Political Subdivisions Committee) MOVED that the amendments on SJ pages 409-410 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed on a voice vote.

CONSIDERATION OF AMENDMENTS

SB 2331: SEN. KANNIANEN (Finance and Taxation Committee) MOVED that the amendments on SJ page 419 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed on a voice vote.

MOTION

SEN. KLEIN MOVED that after action taken on the Sixth order, SB 2355 be placed on the Eleventh order for immediate second reading and final passage, which motion prevailed.

CONSIDERATION OF AMENDMENTS

SB 2355: SEN. UNRUH (Finance and Taxation Committee) MOVED that the amendments on SJ page 420 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 2355: A BILL for an Act to provide for a legislative management study of the taxation of liquid nicotine and electronic smoking devices.

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

YEAS: Anderson; Bakke; Bekkedahl; Burckhard; Clemens; Cook; Davison; Dever; Dotzenrod; Dwyer; Elkin; Erbele; Fors; Grabinger; Heckaman; Hogan; Hogue; Holmberg; Kannianen; Klein; Krebsbach; Kreun; Larson, D.; Lee, G.; Lee, J.; Luick;

Marcellais; Mathern; Meyer; Myrdal; Oban; Oehlke; Osland; Patten; Piepkorn; Poolman; Robinson; Roers, J.; Roers, K.; Rust; Schaible; Sorvaag; Unruh; Vedaa; Wanzek; Wardner

NAYS: Larsen, O.

Engrossed SB 2355 passed.

SECOND READING OF SENATE BILL

SB 2092: A BILL for an Act to amend and reenact sections 23-36-01, 23-36-03, 23-36-05, 23-36-06, and 23-36-08 of the North Dakota Century Code, relating to rabies control.

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: Anderson; Bakke; Bekkedahl; Burckhard; Clemens; Cook; Davison; Dever; Dotzenrod; Dwyer; Elkin; Erbele; Fors; Grabinger; Heckaman; Hogan; Hogue; Holmberg; Kannianen; Klein; Krebsbach; Kreun; Larsen, O.; Larson, D.; Lee, G.; Lee, J.; Luick; Marcellais; Mathern; Meyer; Myrdal; Oban; Oehlke; Osland; Patten; Piepkorn; Poolman; Robinson; Roers, J.; Roers, K.; Rust; Schaible; Sorvaag; Unruh; Vedaa; Wanzek; Wardner

Engrossed SB 2092 passed.

SECOND READING OF SENATE BILL

SB 2216: A BILL for an Act to amend and reenact sections 15-19-01, 15-19-02, 15-19-02.1, 15-19-04, 15-19-06, and 15-19-08 of the North Dakota Century Code, relating to distance education; and to repeal section 15-19-03 of the North Dakota Century Code, relating to authorization of enrollments to the center for distance education by a superintendent of a school.

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: Anderson; Bakke; Bekkedahl; Burckhard; Clemens; Cook; Davison; Dever; Dotzenrod; Dwyer; Elkin; Erbele; Fors; Grabinger; Heckaman; Hogan; Hogue; Holmberg; Kannianen; Klein; Krebsbach; Kreun; Larsen, O.; Larson, D.; Lee, G.; Lee, J.; Luick; Marcellais; Mathern; Meyer; Myrdal; Oban; Oehlke; Osland; Patten; Piepkorn; Poolman; Robinson; Roers, J.; Roers, K.; Rust; Schaible; Sorvaag; Unruh; Vedaa; Wanzek; Wardner

Engrossed SB 2216 passed.

SECOND READING OF SENATE BILL

SB 2239: A BILL for an Act to create and enact section 36-01-36 of the North Dakota Century Code, relating to animal identification program records; and to amend and reenact section 36-01-32 of the North Dakota Century Code, relating to the development and maintenance of animal tracking databases.

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: Anderson; Bakke; Bekkedahl; Burckhard; Clemens; Cook; Davison; Dever;

Dotzenrod; Dwyer; Elkin; Erbele; Fors; Grabinger; Heckaman; Hogan; Hogue; Holmberg; Kannianen; Klein; Krebsbach; Kreun; Larsen, O.; Larson, D.; Lee, G.; Lee, J.; Luick; Marcellais; Mathern; Meyer; Myrdal; Oban; Oehlke; Osland; Patten; Piepkorn; Poolman; Robinson; Roers, J.; Roers, K.; Rust; Schaible; Sorvaag; Unruh; Vedaa; Wanzek; Wardner

Engrossed SB 2239 passed.

SECOND READING OF SENATE BILL

SB 2301: A BILL for an Act to create and enact section 53-06.1-12.4 of the North Dakota Century Code, relating to the creation of the charitable gaming technology fund; to amend and reenact subsection 2 of section 53-06.1-03 and sections 53-06.1-08.2, 53-06.1-12, and 53-06.1-14 of the North Dakota Century Code, relating to gaming license fees, taxes, and allocation and electronic pull tab device prize amounts; to provide a continuing appropriation; and to provide an allocation.

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 9 YEAS, 38 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

YEAS: Burckhard; Hogue; Klein; Larson, D.; Luick; Myrdal; Piepkorn; Sorvaag; Vedaa

NAYS: Anderson; Bakke; Bekkedahl; Clemens; Cook; Davison; Dever; Dotzenrod; Dwyer; Elkin; Erbele; Fors; Grabinger; Heckaman; Hogan; Holmberg; Kannianen; Krebsbach; Kreun; Larsen, O.; Lee, G.; Lee, J.; Marcellais; Mathern; Meyer; Oban; Oehlke; Osland; Patten; Poolman; Robinson; Roers, J.; Roers, K.; Rust; Schaible; Unruh; Wanzek; Wardner

SB 2301 failed.

SECOND READING OF SENATE BILL

SB 2160: A BILL for an Act to amend and reenact section 15.1-27-04.1 of the North Dakota Century Code, relating to state foundation aid payments to school districts.

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 10 YEAS, 37 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

YEAS: Bekkedahl; Dotzenrod; Erbele; Heckaman; Hogan; Kannianen; Patten; Roers, J.; Rust; Vedaa

NAYS: Anderson; Bakke; Burckhard; Clemens; Cook; Davison; Dever; Dwyer; Elkin; Fors; Grabinger; Hogue; Holmberg; Klein; Krebsbach; Kreun; Larsen, O.; Larson, D.; Lee, G.; Lee, J.; Luick; Marcellais; Mathern; Meyer; Myrdal; Oban; Oehlke; Osland; Piepkorn; Poolman; Robinson; Roers, K.; Schaible; Sorvaag; Unruh; Wanzek; Wardner

SB 2160 failed.

SECOND READING OF SENATE BILL

SB 2147: A BILL for an Act to amend and reenact section 15-10-43 of the North Dakota Century Code, relating to admission committee members for the veterinary medical education program.

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: Anderson; Bakke; Bekkedahl; Burckhard; Clemens; Cook; Davison; Dever; Dotzenrod; Dwyer; Elkin; Erbele; Fors; Grabinger; Heckaman; Hogan; Hogue; Holmberg; Kannianen; Klein; Krebsbach; Kreun; Larsen, O.; Larson, D.; Lee, G.; Lee, J.; Luick; Marcellais; Mathern; Meyer; Myrdal; Oban; Oehlke; Osland; Patten; Piepkorn; Poolman; Robinson; Roers, J.; Roers, K.; Rust; Schaible; Sorvaag; Unruh; Vedaa; Wanzek; Wardner

SB 2147 passed.

MOTION

SEN. KLEIN MOVED that Senate Rule 329 be amended, replacing "twenty-third legislative day" with "twenty-fifth legislative day", which motion prevailed.

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

MR. SPEAKER: The Senate has passed, and your favorable consideration is requested on: SB 2130, SB 2244, SB 2296, SB 2350.

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

MR. SPEAKER: The Senate has passed, the emergency clause carried, and your favorable consideration is requested on: SB 2109, SB 2210, SB 2321.

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 1163, HB 1175, HB 1205, HB 1311, HB 1434, HB 1466, HB 1478, HB 1487.

MOTION

SEN. KLEIN 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 1:00 p.m., Thursday, February 7, 2019, which motion prevailed.

REPORT OF STANDING COMMITTEE

SB 2128: Appropriations Committee (Sen. Holmberg, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (10 YEAS, 4 NAYS, 0 ABSENT AND NOT VOTING). SB 2128 was placed on the Sixth order on the calendar.

Page 1, line 7, replace "\$300" with "the greater of an average of three percent or \$100"

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

This amendment provides legislative intent that state employee salary increases be 3 percent with a \$100 minimum for the first year of the biennium and 3 percent for the second year rather than \$300 per month for the first year and 3 percent for the second year.

REPORT OF STANDING COMMITTEE

SB 2176: Appropriations Committee (Sen. Holmberg, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2176 was placed on the Sixth order on the calendar.

Page 1, line 2, remove "to provide an appropriation;"

Page 2, remove lines 1 through 6

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

This amendment removes the appropriation of \$200,000 for the study of a road train pilot project.

REPORT OF STANDING COMMITTEE

SB 2196: 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 2196 was placed on the Sixth order on the calendar.

Page 3, line 9, after the first "the" insert "written"

Page 3, line 10, after "all" insert "patient"

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2220: Agriculture Committee (Sen. Luick, Chairman) recommends **DO NOT PASS** (4 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2220 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2249: Appropriations Committee (Sen. Holmberg, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2249 was placed on the Sixth order on the calendar.

Page 2, line 11, remove "in the general fund."

Page 2, line 12, replace "tax relief fund, or lignite research fund" with "under section 57-51.1-07.5"

Page 2, line 15, replace "as" with "on"

Page 2, line 15, replace "appropriation" with "basis"

Page 2, line 15, after "to" insert "the industrial commission for distribution to"

Page 2, line 15, replace "to be used" with ". The state energy research center shall use the funds"

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

This amendment clarifies the process for allocating oil and gas tax revenues to the newly created state energy research center fund. This amendment also distributes funding to the state energy research center through the Industrial Commission rather than directly appropriating the funds to the center.

REPORT OF STANDING COMMITTEE

SB 2276: Finance and Taxation Committee (Sen. Cook, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). SB 2276 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 a statement of legislative intent relating to legacy fund investments."

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE INTENT - LEGACY FUND INVESTMENTS. It is the intent of the sixty-sixth legislative assembly that:

1. The Bank of North Dakota and the state investment board collaborate to allow for the expansion of the investment of legacy fund assets in Bank of North Dakota programs;
2. The minimum investment be five percent of the principal amount in the legacy fund;
3. The investment earn at least the respective United States treasury rate for the term of the investment, not to exceed ten years; and
4. The investment be used to support community infrastructure priorities or existing economic development programs, including the Bank of North Dakota match program."

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2289: 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 2289 was placed on the Sixth order on the calendar.

Page 1, line 13, after "2." insert "\"Clergy member\" means a member of the clergy or spiritual counselor who has provided a vulnerable adult with religious or spiritual care who represents a religious organization to which a vulnerable adult is a member.

3."

Page 1, line 15, replace "3." with "4."

Page 1, line 17, replace "4." with "5."

Page 1, line 20, replace "5." with "6."

Page 2, line 1, replace "6." with "7."

Page 2, line 1, remove "who is at least sixty-five years of age or an adult"

Page 2, line 2, after "impairment" insert "or an adult who is experiencing visitation restrictions while under the care of a caregiver"

Page 2, line 3, replace "or" with an underscored boldfaced comma

Page 2, line 3, after "friends" insert ", or clergy member"

Page 2, line 5, replace the first "or" with an underscored comma

Page 2, line 5, after "friend" insert ", or clergy member"

Page 2, line 5, replace the fourth "or" with an underscored comma

Page 2, line 6, after "friend" insert ", or clergy member"

Page 2, line 8, replace the first "or" with an underscored comma

Page 2, line 8, after "friend" insert ", or clergy member"

Page 2, line 19, after "caregiver" insert ", vulnerable adult, and other interested parties"

Page 2, line 21, after "4." insert "The court shall conduct an in camera interview of the vulnerable adult to determine the wishes of the vulnerable adult. The in camera interview may be on the record. The court shall give deference to the vulnerable adult's preference in making decisions.

5."

Page 2, line 21, remove the underscored colon

Page 2, line 22, replace "a. The" with "the"

Page 2, line 24, remove "; or"

Page 2, replace lines 25 and 26 with an underscored period

Page 2, line 27, replace "5." with "6."

Page 2, line 27, remove "reasonable"

Page 2, line 28, replace "restrictions" with "conditions"

Page 2, line 28, after "adult" insert "after consultation with the vulnerable adult and based on the minimum visitation necessary to allow the vulnerable adult to maintain maximum self-reliance and independence"

Page 3, line 1, remove "and must occur at the"

Page 3, line 2, remove "placement location of the vulnerable adult"

Page 3, line 3, replace "6." with "The court may prohibit contact between the petitioner and the vulnerable adult when contact is not in the best interest of the vulnerable adult."

8."

Page 3, line 7, replace "or" with an underscored comma

Page 3, line 7, after "friend" insert ", or clergy member"

Page 3, line 10, replace "7." with "9."

Page 3, line 11, replace the second "or" with an underscored comma

Page 3, line 12, after "friend" insert ", or clergy member"

Page 3, line 17, replace "ten" with "fourteen"

Page 3, line 18, after "court" insert ", or at a later date upon a showing of good cause"

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2297: Appropriations Committee (Sen. Holmberg, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2297 was placed on the Sixth order on the calendar.

Page 1, replace lines 18 through 20 with:

"Valley City state university communications and fine arts building project	32,275,000
North Dakota state university agriculture products development center	54,000,000
Northern crops institute project	10,000,000"

Page 1, replace line 22 with:

"Total	\$151,975,000"
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Page 1, line 23, replace "may" with "shall"

Page 1, line 23, after "utilize" insert "at least \$6,000,000 of"

Page 1, line 24, remove "and northern crops institute"

Page 1, line 24, after "project" insert ", and the funds must be committed and available to be spent before the industrial commission may issue bonds for the project"

Page 2, line 1, replace "\$14,000,000" with "\$6,000,000"

Page 2, line 2, remove "any"

Page 2, after line 3, insert:

"The northern crops institute shall obtain and utilize at least \$8,000,000 of federal and other funds for the northern crops institute project, and the funds must be committed and available to be spent before the industrial commission may issue bonds for the project. There is appropriated to the northern crops institute the sum of \$8,000,000, or so much of the sum as may be necessary, from federal or other funds that may become available for this project for the period beginning with the effective date of this Act and ending June 30, 2021."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

This amendment:

- Provides separate appropriation authority for the North Dakota State University agriculture products development center and Northern Crops Institute projects rather than providing one appropriation for both projects;
- Increases the bonding and appropriation authority for the Valley City State University communications and fine arts building project by \$275,000, from \$32,000,000 to \$32,275,000; and
- Requires federal and other funds to be available for the North Dakota State University agriculture projects development center and the Northern Crops Institute projects before the Industrial Commission may issue bonds for the projects.

REPORT OF STANDING COMMITTEE

SB 2347, as engrossed: Appropriations Committee (Sen. Kannianen, Chairman) recommends **DO PASS** (13 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SB 2347 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SCR 4014: Human Services Committee (Sen. J. Lee, Chairman) recommends **DO PASS** (4 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SCR 4014 was placed on the Eleventh order on the calendar.

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

Shanda Morgan, Secretary

