

**JOURNAL OF THE SENATE**

**Fifty-eighth Legislative Assembly**

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**Bismarck, January 28, 2003**

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

The prayer was offered by Pastor Greg Runyon, Church of Acts, Bismarck.

The roll was called and all members were present.

A quorum was declared by the President.

**MOTION**

**SEN. CHRISTMANN MOVED** that SB 2143, which is on the Sixth order, be rereferred to the **Human Services Committee**, which motion prevailed. Pursuant to Sen. Christmann's motion, SB 2143 was rereferred.

**CONSIDERATION OF AMENDMENTS**

**SB 2078: SEN. NELSON (Government and Veterans Affairs Committee) MOVED** that the amendments on SJ page 151 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

**CONSIDERATION OF AMENDMENTS**

**SB 2118: SEN. BROWN (Government and Veterans Affairs Committee) MOVED** that the amendments on SJ page 151 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

**CONSIDERATION OF AMENDMENTS**

**SB 2163: SEN. LYSON (Judiciary Committee) MOVED** that the amendments on SJ page 152 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

**SECOND READING OF SENATE BILL**

**SB 2046:** A BILL for an Act to amend and reenact sections 4-30-48 and 6-03-13.6, subdivision b of subsection 3 of section 10-06.1-17, subsection 2 of section 10-19.1-146, subsection 21 of section 11-11-14, sections 11-28.2-01 and 12.1-12-02, subsection 5 of section 14-09-08.4, sections 14-09-08.13 and 14-09-08.14, subdivision e of subsection 5 of section 19-03.1-36, sections 20.1-02-05.1, 20.1-04-12.1, 20.1-08-04.6, 20.1-13-08, 20.1-13.1-09, 20.1-15-09, and 20.1-15-10, subsection 7 of section 21-03-07, section 23-02.1-16, subsection 6 of section 26.1-05-19, subsection 9 of section 26.1-06.1-02, subsection 4 of section 26.1-17-01, sections 26.1-26-31.8 and 26.1-36.5-01, subdivision e of subsection 4 of section 26.1-38.1-01, subsection 1 of section 29-06-15, subsection 9 of section 32-03.2-11, section 38-08-09.9, subsection 7 of section 40-63-07, subdivision e of subsection 1 of section 41-09-02, subsection 4 of section 43-17-07.1, subsection 2 of section 44-04-18, section 49-01-02, subsection 5 of section 54-52.1-01, and subsection 2 of section 57-02-26 of the North Dakota Century Code, relating to technical corrections and improper, inaccurate, redundant, missing, or obsolete references.

**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; Bercier; Bowman; Brown; Christenson; Christmann; Cook; Dever; Erbele; Espesgard; Every; Fairfield; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Mutch; Nelson; Nething; Nichols; O'Connell; Polovitz; Robinson; Schobinger; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

Engrossed SB 2046 passed and the title was agreed to.

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**SECOND READING OF SENATE BILL**

**SB 2131:** A BILL for an Act to amend and reenact sections 43-36-14, 43-36-15, and 43-36-16 of the North Dakota Century Code, relating to soil classifier application and registration fees.

**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:** Bercier; Bowman; Brown; Christenson; Christmann; Cook; Dever; Erbele; Espegard; Every; Fairfield; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Mutch; Nelson; Nething; Nichols; O'Connell; Polovitz; Robinson; Schobinger; Seymour; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

**NAYS:** Andrist; Stenehjem

Engrossed SB 2131 passed and the title was agreed to.

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**SECOND READING OF SENATE BILL**

**SB 2187:** A BILL for an Act to amend and reenact section 26.1-21-09.1 of the North Dakota Century Code, relating to bonds of agents appointed to distribute hunting and fishing licenses or stamps.

**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; Bercier; Brown; Christenson; Christmann; Cook; Dever; Erbele; Espegard; Every; Fairfield; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Nelson; Nething; Nichols; O'Connell; Polovitz; Robinson; Schobinger; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

**NAYS:** Bowman; Mutch

Engrossed SB 2187 passed and the title was agreed to.

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**SECOND READING OF SENATE BILL**

**SB 2199:** A BILL for an Act to create and enact a new section to chapter 4-22 of the North Dakota Century Code, relating to training for newly elected or appointed soil conservation district supervisors; and to amend and reenact section 4-22-04 of the North Dakota Century Code, relating to the soil conservation committee chairmanship.

**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; Bercier; Bowman; Brown; Christenson; Christmann; Cook; Dever; Erbele; Espegard; Every; Fairfield; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Mutch; Nelson; Nething; Nichols; O'Connell; Polovitz; Robinson; Schobinger; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

Engrossed SB 2199 passed and the title was agreed to.

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**SECOND READING OF SENATE BILL**

**SB 2053:** A BILL for an Act to amend and reenact sections 40-22-10 and 40-22-29 of the North Dakota Century Code, relating to cost estimates for improvements by special assessments; 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 47 YEAS, 0 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bercier; Bowman; Brown; Christenson; Christmann; Cook; Dever; Erbele; Espegard; Every; Fairfield; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Mutch; Nelson; Nething; Nichols; O'Connell; Polovitz; Robinson; Schobinger; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

SB 2053 passed and the title was agreed to.

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**SECOND READING OF SENATE BILL**

**SB 2138:** A BILL for an Act to amend and reenact section 54-03-03 of the North Dakota Century Code, relating to filing certificates of election and appointments with the legislative assembly and making the roll of members of the legislative assembly.

**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; Bercier; Bowman; Brown; Christenson; Christmann; Cook; Dever; Erbele; Espegard; Every; Fairfield; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Mutch; Nelson; Nething; Nichols; O'Connell; Polovitz; Robinson; Schobinger; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

SB 2138 passed and the title was agreed to.

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**SECOND READING OF SENATE BILL**

**SB 2174:** A BILL for an Act to amend and reenact section 14-09-22 of the North Dakota Century Code, relating to the use of corporal punishment.

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

**YEAS:** Thane

**NAYS:** Andrist; Bercier; Bowman; Brown; Christenson; Christmann; Cook; Dever; Erbele; Espegard; Every; Fairfield; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Mutch; Nelson; Nething; Nichols; O'Connell; Polovitz; Robinson; Schobinger; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

SB 2174 lost.

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**SECOND READING OF SENATE BILL**

**SB 2181:** A BILL for an Act to amend and reenact section 5-01-07 of the North Dakota Century Code, relating to alcoholic beverage licenses and townships.

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

**YEAS:** Freborg; Grindberg; Heitkamp

**NAYS:** Andrist; Bercier; Bowman; Brown; Christenson; Christmann; Cook; Dever; Erbele; Espeguard; Every; Fairfield; Fischer; Flakoll; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Mutch; Nelson; Nething; Nichols; O'Connell; Polovitz; Robinson; Schobinger; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

SB 2181 lost.

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#### SECOND READING OF SENATE BILL

**SB 2186:** A BILL for an Act to amend and reenact subsection 2 of section 11-18-05 of the North Dakota Century Code, relating to fees for recording land survey monuments.

#### 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 5 YEAS, 42 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Dever; Krauter; Schobinger; Wardner

**NAYS:** Bercier; Bowman; Brown; Christenson; Christmann; Cook; Erbele; Espeguard; Every; Fairfield; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kilzer; Klein; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Mutch; Nelson; Nething; Nichols; O'Connell; Polovitz; Robinson; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Urlacher

SB 2186 lost.

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#### SECOND READING OF SENATE BILL

**SB 2188:** A BILL for an Act to create and enact a new section to chapter 50-12 of the North Dakota Century Code, relating to moral or religious objections by a child-placing agency; and to amend and reenact section 50-12-03 of the North Dakota Century Code, relating to licensure of child-placing agencies.

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

**YEAS:** Andrist; Bercier; Bowman; Brown; Christmann; Cook; Dever; Erbele; Espeguard; Every; Fairfield; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Mutch; Nething; Nichols; O'Connell; Polovitz; Robinson; Schobinger; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

**NAYS:** Christenson; Nelson

SB 2188 passed and the title was agreed to.

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#### SECOND READING OF SENATE BILL

**SB 2201:** A BILL for an Act to create and enact a new section to chapter 36-15 of the North Dakota Century Code, relating to waivers of requirements for calfhood vaccination against brucellosis; and to amend and reenact section 36-15-21 of the North Dakota Century Code, relating to requirements for calfhood vaccination against brucellosis.

#### 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; Bercier; Bowman; Brown; Christenson; Christmann; Cook; Dever; Erbele; Espeguard; Every; Fairfield; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Mutch; Nelson; Nething; Nichols; O'Connell; Polovitz; Robinson; Schobinger; Seymour;

Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

SB 2201 passed and the title was agreed to.

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#### SECOND READING OF SENATE BILL

**SB 2218:** A BILL for an Act to amend and reenact section 43-43-04 of the North Dakota Century Code, relating to the creation of limited or specialty practice licenses within the practice of environmental health.

#### 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; Bercier; Bowman; Brown; Christenson; Christmann; Cook; Dever; Erbele; Espegard; Every; Fairfield; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Mutch; Nelson; Nething; Nichols; O'Connell; Polovitz; Robinson; Schobinger; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

SB 2218 passed and the title was agreed to.

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#### SECOND READING OF SENATE BILL

**SB 2267:** A BILL for an Act to create and enact a new subsection to section 6-08.4-01 and a new section to chapter 6-08.4 of the North Dakota Century Code, relating to banking definitions and branch restrictions; and to amend and reenact sections 6-08.4-02, 6-08.4-03, 6-08.4-05, and 6-08.4-06 of the North Dakota Century Code, relating to approval by federal regulatory authorities, authority of a bank to branch interstate, notice and filing requirements, and powers of banks operating through interstate branches.

#### 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; Bercier; Bowman; Brown; Christenson; Christmann; Cook; Dever; Erbele; Espegard; Every; Fairfield; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Mutch; Nelson; Nething; Nichols; O'Connell; Polovitz; Robinson; Schobinger; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

SB 2267 passed and the title was agreed to.

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

**MR. PRESIDENT:** The House has passed and your favorable consideration is requested on: HB 1060, HB 1097, HB 1098, HB 1141, HB 1146, HB 1201, HB 1249, HB 1328.

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

**MR. PRESIDENT:** The House has passed, the emergency clause carried, and your favorable consideration is requested on: HB 1065, HB 1099, HB 1228.

#### 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 2071, SB 2169, SB 2072, SB 2132, SB 2176, SB 2209, SB 2213, SCR 4001.

#### MOTION

**SEN. CHRISTMANN MOVED** that the Senate be on the Fifth, Ninth, and Thirteenth orders of business and at the conclusion of those orders, the Senate stand adjourned until 1:00 p.m., Wednesday, January 29, 2003, which motion prevailed.

**REPORT OF STANDING COMMITTEE**

**SB 2064: Appropriations Committee (Sen. Holmberg, Chairman)** recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2064 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2073: Judiciary Committee (Sen. Traynor, Chairman)** recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2073 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2093: Judiciary Committee (Sen. Traynor, Chairman)** recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2093 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2107: Judiciary Committee (Sen. Traynor, Chairman)** recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2107 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2147: Judiciary Committee (Sen. Traynor, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2147 was placed on the Sixth order on the calendar.

Page 3, line 13, after the underscored period insert "If there is probable cause to believe an offender has violated any of the terms or conditions of supervision under the compact for the supervision of adult offenders, a parole and probation officer or any peace officer directed by a parole and probation officer may take the offender into custody and detain the offender in a correctional facility pending application for a warrant of arrest and authority to detain."

Page 4, line 4, after the underscored comma insert "and unless permission has been obtained from the state's attorney in the county in which the criminal offense is alleged to have occurred,"

Page 4, line 5, after "offense" insert an underscored period

Page 4, remove lines 6 and 7

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**SB 2170: Judiciary Committee (Sen. Traynor, Chairman)** recommends **DO NOT PASS** (4 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). SB 2170 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2171: Government and Veterans Affairs Committee (Sen. Krebsbach, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2171 was placed on the Sixth order on the calendar.

Page 1, line 7, after "d." insert "(1)" and after "and" insert ", except as otherwise provided in this subdivision,"

Page 1, line 9, replace ", except the" with "."

(2) The"

Page 1, line 10, after "entity" insert ", except the legislative assembly,"

Page 1, line 11, replace "that" with "the", after "sum" insert "provided in paragraph 1", and replace "this" with "that paragraph"

Page 1, line 12, remove "subdivision" and after the period insert:

"(3)"

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**SB 2235: Industry, Business and Labor Committee (Sen. Mutch, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2235 was placed on the Sixth order on the calendar.

Page 1, line 7, replace "June 30" with "July 31" and replace "July" with "August"

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**SB 2245: Human Services Committee (Sen. J. Lee, Chairman)** recommends **DO PASS** (5 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). SB 2245 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2265: Education Committee (Sen. Freborg, Chairman)** recommends **DO NOT PASS** (5 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). SB 2265 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2274: Industry, Business and Labor Committee (Sen. Mutch, Chairman)** recommends **DO PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2274 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2302: Industry, Business and Labor Committee (Sen. Mutch, Chairman)** recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2302 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SCR 4006: Education Committee (Sen. Freborg, Chairman)** recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SCR 4006 was placed on the Eleventh order on the calendar.

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

**WILLIAM R. HORTON, Secretary**

