

JOURNAL OF THE SENATE

Fifty-eighth Legislative Assembly

* * * * *

Bismarck, February 6, 2003

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

The prayer was offered by Pastor Wilfred L. Hanson, Zion, Elgin.

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. Espgaard, 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 223, line 5, replace "of" with "or"

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

MOTION

SEN. CHRISTMANN MOVED that SB 2095 be moved to the bottom of the Sixth order, which motion prevailed.

MOTION

SEN. CHRISTMANN MOVED that SB 2162, which is on the Eleventh order, be rereferred to the **Appropriations Committee**, which motion prevailed. Pursuant to Sen. Christmann's motion, SB 2162 was rereferred.

CONSIDERATION OF AMENDMENTS

SB 2305: SEN. FLAKOLL (Education Committee) MOVED that the amendments on SJ pages 238-241 be adopted and then be **REREFERRED** to the **Appropriations Committee** with **DO PASS**, which motion prevailed.

MOTION

SEN. CHRISTMANN MOVED that the rules be suspended and after action taken on the Sixth order, all bills on that order, with the exception of SB 2154, be placed on the Eleventh order, as amended, for immediate second reading and final passage, which motion prevailed.

CONSIDERATION OF AMENDMENTS

SB 2302: SEN. ESPEGARD (Industry, Business and Labor Committee) MOVED that the amendments on SJ page 238 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

SECOND READING OF SENATE BILL

SB 2302: A BILL for an Act to amend and reenact subsection 4 of section 13-01-14 of the North Dakota Century Code, relating to late payment charges on medical or hospital bills.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 46 YEAS, 1 NAY, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

YEAS: Andrist; Bercier; Bowman; Brown; Christenson; Christmann; Cook; Dever; Erbele; Espgaard; Every; Fairfield; Fischer; Flakoll; Freborg; 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

NAYS: Grindberg

Engrossed SB 2302 passed and the title was agreed to.

CONSIDERATION OF AMENDMENTS

SB 2238: SEN. HEITKAMP (Industry, Business and Labor Committee) MOVED that the amendments on SJ page 237 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

SECOND READING OF SENATE BILL

SB 2238: A BILL for an Act to provide for automobile insurance notice requirements following total loss.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, 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; Espégard; 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 2238 passed and the title was agreed to.

CONSIDERATION OF AMENDMENTS

SB 2154: SEN. FREBORG (Education Committee) MOVED that the amendments on SJ pages 232-236 be adopted and then be **REFERRED** to the **Appropriations Committee** with **DO PASS**.

REQUEST

SEN. EVERY REQUESTED a recorded roll call vote on the motion to adopt the proposed amendments to SB 2154, which request was granted.

ROLL CALL

The question being on the motion to adopt the amendments to SB 2154, the roll was called and there were 27 YEAS, 20 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

YEAS: Andrist; Bowman; Brown; Christmann; Cook; Dever; Erbele; Fischer; Flakoll; Freborg; Grindberg; Kilzer; Klein; Kringstad; Lee, G.; Lee, J.; Lyson; Mutch; Nething; Schobinger; Stenehjem; Syverson; Thane; Tollefson; Traynor; Urlacher; Wardner

NAYS: Bercier; Christenson; Espégard; Every; Fairfield; Heitkamp; Holmberg; Krauter; Krebsbach; Lindaas; Mathern; Nelson; Nichols; O'Connell; Polovitz; Robinson; Seymour; Tallackson; Taylor; Trenbeath

The motion to adopt the amendments to SB 2154 passed.

Engrossed SB 2154 was rereferred to the **Appropriations Committee**.

CONSIDERATION OF AMENDMENTS

SB 2287: SEN. KLEIN (Industry, Business and Labor Committee) MOVED that the amendments on SJ page 238 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

SECOND READING OF SENATE BILL

SB 2287: A BILL for an Act to provide for a legislative council study of licensure of accredited business accountants.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 43 YEAS, 4 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

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

NAYS: Bercier; Cook; Mathern; Nichols

Engrossed SB 2287 passed and the title was agreed to.

CONSIDERATION OF AMENDMENTS

SB 2309: SEN. KREBSBACH (Industry, Business and Labor Committee) MOVED that the amendments on SJ page 241 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

SECOND READING OF SENATE BILL

SB 2309: A BILL for an Act to amend and reenact subsection 4 of section 65-04-33 of the North Dakota Century Code, relating to exempting townships from penalties for failing to furnish workers' compensation payroll reports.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, 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

Engrossed SB 2309 passed and the title was agreed to.

CONSIDERATION OF AMENDMENTS

SB 2216: SEN. FLAKOLL (Education Committee) MOVED that the amendments on SJ page 237 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed on a verification vote.

SECOND READING OF SENATE BILL

SB 2216: A BILL for an Act to create and enact a new section to chapter 15.1-06 of the North Dakota Century Code, relating to conduct by school students and staff.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 27 YEAS, 20 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

YEAS: Andrist; Bowman; Brown; Christmann; Dever; Every; Fairfield; Flakoll; Grindberg; Heitkamp; Holmberg; Klein; Krauter; Krebsbach; Lee, J.; Lyson; Nelson; Nichols; O'Connell; Robinson; Schobinger; Stenehjem; Tallackson; Thane; Tollefson; Traynor; Urlacher

NAYS: Bercier; Christenson; Cook; Erbele; Espeguard; Fischer; Freborg; Kilzer; Kringstad; Lee, G.; Lindaas; Mathern; Mutch; Nething; Polovitz; Seymour; Syverson; Taylor; Trenbeath; Wardner

Engrossed SB 2216 passed and the title was agreed to.

MOTION

SEN. CHRISTMANN MOVED that the Senate proceed to the Eleventh order, which motion prevailed.

THE SENATE RECOGNIZED THE PRESENCE OF:

Former Senator Deb Mathern.

SECOND READING OF SENATE BILL

SB 2269: A BILL for an Act to create and enact two new sections to chapter 12.1-23 North Dakota Century Code, relating to the unlawful manufacture, distribution, and use of theft detection shielding devices or deactivators; and to provide a penalty.

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 2269 passed and the title was agreed to.

SECOND READING OF SENATE BILL

SB 2286: A BILL for an Act to amend and reenact section 57-33-03 of the North Dakota Century Code, relating to reporting of cooperative gross receipts for purposes of taxation of rural electric cooperatives; 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 2286 passed and the title was agreed to.

SECOND READING OF SENATE BILL

SB 2289: A BILL for an Act to amend and reenact subsection 1 of section 23-07-17.1 of the North Dakota Century Code, relating to required inoculations for children.

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, 1 NAY, 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; Nelson; Nething; Nichols; O'Connell; Polovitz; Robinson; Schobinger; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

NAYS: Mutch

SB 2289 passed and the title was agreed to.

SECOND READING OF SENATE BILL

SB 2396: A BILL for an Act to create and enact a new section to chapter 26.1-07.1 of the North Dakota Century Code, relating to school districts providing self-insurance health programs through joint powers agreements.

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: Christmann; Every; Fairfield; Mathern; Nelson; Nichols; O'Connell; Seymour; Tallackson; Taylor

NAYS: Andrist; Bercier; Bowman; Brown; Christenson; Cook; Dever; Erbele; Espegard; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Lyson; Mutch; Nething; Polovitz; Robinson; Schobinger; Stenehjerm; Syverson; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

SB 2396 lost.

SECOND READING OF SENATE BILL

SB 2268: A BILL for an Act to prohibit the fraudulent use of retail sales receipts and universal product code labels; and to provide a penalty.

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

SB 2268 passed and the title was agreed to.

SECOND READING OF SENATE BILL

SB 2147: A BILL for an Act to create and enact six new sections to chapter 12-65 of the North Dakota Century Code, relating to the supervision of adult offenders; to amend and reenact subsection 3 of section 12-47-36, subsection 4 of article 2 and subsection 2 of article 3 of section 12-65-01, and subsection 1 of section 54-57-03 of the North Dakota Century Code, relating to records of persons in the custody of or under the supervision and management of the department of corrections and rehabilitation, hearings before administrative law judges, and supervision of adult offenders; to repeal chapters 12-56 and 12-56.1 of the North Dakota Century Code and section 2 of chapter 141 of the 2001 Session Laws, relating to out-of-state parolee supervision, hearings for interstate parolees and probationers, and elimination of the expiration date of laws relating to the interstate compact for adult offender supervision; and to provide a penalty.

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

Engrossed SB 2147 passed and the title was agreed to.

SECOND READING OF SENATE BILL

SB 2070: A BILL for an Act to create and enact a new section to chapter 25-03.1 of the North Dakota Century Code, relating to interstate contracts for the treatment of individuals with mental illness or chemical dependency.

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 2070 passed and the title was agreed to.

SECOND READING OF SENATE BILL

SB 2304: A BILL for an Act to create and enact a new chapter to title 4 of the North Dakota Century Code, relating to damages for cross-pollination with transgenic wheat; and to provide for a legislative council study.

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

YEAS: Bercier; Bowman; Christenson; Every; Fairfield; Heitkamp; Krauter; Lindaas; Mathern; Mutch; Nichols; O'Connell; Polovitz; Robinson; Schobinger; Seymour; Stenehjem; Tallackson; Taylor

NAYS: Andrist; Brown; Christmann; Cook; Dever; Erbele; Espegard; Fischer; Flakoll; Freborg; Grindberg; Holmberg; Kilzer; Klein; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lyson; Nelson; Nething; Syverson; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

SB 2304 lost.

SECOND READING OF SENATE BILL

SB 2281: A BILL for an Act to amend and reenact subparagraph a of paragraph 3 of subdivision d of subsection 3 of section 26.1-36.3-06 of the North Dakota Century Code, relating to small employer health benefit plans.

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 2281 passed and the title was agreed to.

SECOND READING OF SENATE BILL

SB 2166: A BILL for an Act to create and enact a new subsection to section 57-39.2-04 of the North Dakota Century Code, relating to a sales and use tax exemption for youth camps; and to provide an effective date.

ROLL CALL

The question being on the final passage of the bill, which has been read, and has committee recommendation of DO NOT PASS, the roll was called and there were 17 YEAS, 30 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

YEAS: Bercier; Christenson; Every; Fairfield; Heitkamp; Mathern; Nelson; Nething; O'Connell; Polovitz; Seymour; Tallackson; Taylor; Thane; Traynor; Urlacher; Wardner

NAYS: Andrist; Bowman; Brown; Christmann; Cook; Dever; Erbele; Espegard; Fischer; Flakoll; Freborg; Grindberg; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Lyson; Mutch; Nichols; Robinson; Schobinger; Stenehjem; Syverson; Tollefson; Trenbeath

SB 2166 lost.

SECOND READING OF SENATE BILL

SB 2395: A BILL for an Act to create and enact a new section to chapter 57-38 and a new subsection to section 57-38-30.3 of the North Dakota Century Code, relating to a small business investment income tax credit; and to provide an effective date.

ROLL CALL

The question being on the final passage of the bill, which has been read, and has committee recommendation of DO NOT PASS, the roll was called and there were 8 YEAS, 39 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

YEAS: Bowman; Fairfield; Mathern; Nichols; O'Connell; Seymour; Tallackson; Taylor

NAYS: Andrist; Bercier; Brown; Christenson; Christmann; Cook; Dever; Erbele; Espegard; Every; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Lyson; Mutch; Nelson; Nething; Polovitz; Robinson; Schobinger; Stenehjem; Syverson; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

SB 2395 lost.

SECOND READING OF SENATE BILL

SB 2232: A BILL for an Act to amend and reenact section 54-17-25 of the North Dakota Century Code, relating to bonds of the student loan trust.

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 2232 passed and the title was agreed to.

SECOND READING OF SENATE BILL

SB 2239: A BILL for an Act to amend and reenact section 39-03-13 of the North Dakota Century Code, relating to discipline of members of the highway patrol.

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

YEAS: Christenson; Every; Fairfield; Heitkamp; Krauter; Lee, J.; Lindaas; Lyson; O'Connell; Tallackson

NAYS: Andrist; Bercier; Bowman; Brown; Christmann; Cook; Dever; Erbele; Espegard; Fischer; Flakoll; Freborg; Grindberg; Holmberg; Kilzer; Klein; Krebsbach; Lee, G.; Mathern; Mutch; Nelson; Nething; Nichols; Polovitz; Robinson; Schobinger; Seymour; Stenehjem; Syverson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

ABSENT AND NOT VOTING: Kringstad

SB 2239 lost.

MOTION

SEN. CHRISTMANN MOVED that Senate Rule 329 (4) be amended, changing "twenty-third" to "twenty-eighth", thereby extending the deadline for referral of Senate bills to the Appropriations Committee, which motion prevailed.

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 2145, SB 2146, SB 2178, SB 2182, SB 2214, SB 2231, SB 2243, SB 2256, SB 2262, SB 2339, SCR 4007.

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 2228.

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 1100, HB 1114, HB 1216, HB 1220, HB 1223, HB 1305, HB 1333, HB 1343, HB 1346, HB 1363, HB 1372.

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 1192, HB 1258.

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 12:30 p.m., Friday, February 7, 2003, which motion prevailed.

REPORT OF STANDING COMMITTEE

SB 2063: Judiciary Committee (Sen. Traynor, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2063 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2065: Education Committee (Sen. Freborg, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (4 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2065 was placed on the Sixth order on the calendar.

Page 1, line 15, remove the first "and", after "eight" insert an underscored comma, and replace "in one grade selected within the grade span ten" with "eleven"

Page 1, line 16, remove "through twelve"

Page 1, line 20, replace "within each of" with "from"

Page 1, line 21, remove "the following grade spans: grades" and replace the second "grades" with "to at least one grade level selected from"

Page 1, line 22, replace "grades ten through twelve" with "to grade eleven. The superintendent of public instruction may not administer the grade eleven test after November first of each school year"

Page 1, after line 22, insert:

"3. Before application in the 2005-06 school year, all state tests and accompanying rubrics and cut scores referenced in this section must be independently reviewed by representatives of the North Dakota council of educational leaders and may be administered only upon the written concurrence of the North Dakota council of educational leaders and the superintendent of public instruction, and approval of an interim committee of the legislative council. Any other individual who wishes to view and comment on the tests and accompanying rubrics and cut scores must be

provided an opportunity to view the tests by the superintendent of public instruction and may provide comments to the interim committee of the legislative council.

4. All state tests must provide accompanying nationally norm-referenced student evaluations with proficiency standards for at least grades four and eight and for the high school grade in which the tests are administered, in all test categories referenced in this section or in the alternative, another nationally normed test other than the national assessment of educational progress must be administered at the time the state tests are administered to students in grades four and eight and to students at the high school level, and the results must be provided to school districts and to parents. The proficiency standards into which results must be segregated are to be known as advanced, proficient, and novice."

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2088: Human Services Committee (Sen. J. Lee, Chairman) recommends **DO NOT PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2088 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2141: Judiciary Committee (Sen. Traynor, Chairman) recommends **DO NOT PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2141 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2143: 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 2143 was placed on the Sixth order on the calendar.

Page 1, line 17, replace the underscored period with "or being"

Page 1, line 18, remove "6. Being"

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2194: Human Services Committee (Sen. J. Lee, 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 2194 was placed on the Sixth order on the calendar.

Page 1, line 8, after "Act" insert ", who is eighteen to sixty-four years of age,"

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2246: Human Services Committee (Sen. J. Lee, Chairman) recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (4 YEAS, 1 NAY, 1 ABSENT AND NOT VOTING). SB 2246 was rereferred to the **Appropriations Committee**.

REPORT OF STANDING COMMITTEE

SB 2257: Human Services Committee (Sen. J. Lee, Chairman) recommends **DO NOT PASS** (5 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). SB 2257 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2260: Appropriations Committee (Sen. Holmberg, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). SB 2260 was placed on the Sixth order on the calendar.

Page 1, line 4, replace "\$1,500,000" with "\$50,000"

Page 1, line 16, remove "up to twenty-seven"

Page 1, line 22, remove "Each member of the advisory board is entitled to"

Page 1, remove lines 23 and 24

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

Dept. 270 - State Board for Vocational and Technical Education

SENATE - This amendment changes the amount of the appropriation for approved applied technology programs from \$1,500,000 to \$50,000, removes the limit on the number of schools that can contract to participate for the first time in cooperatives, and removes the provision that would allow advisory board members to receive reimbursement for expenditures.

REPORT OF STANDING COMMITTEE

SB 2261: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2261 was placed on the Sixth order on the calendar.

Page 1, line 1, after "enact" insert "a new section to chapter 6-09," and after the comma insert "a new section to chapter 15-10,"

Page 1, after line 8, insert:

"SECTION 1. A new section to chapter 6-09 of the North Dakota Century Code is created and enacted as follows:

Long-term lease and leaseback transaction revenue. Revenue earned by the Bank through financial services provided for long-term lease and leaseback transactions made under this Act must be used for economic development projects, including seed money, venture capital grants, export promotion, loan forgiveness for specified programs, tourism promotion efforts, and any other suitable uses as determined by the Bank."

Page 1, after line 16, insert:

"SECTION 3. A new section to chapter 15-10 of the North Dakota Century Code is created and enacted as follows:

Long-term lease and leaseback transaction revenue. The board shall use revenue earned from long-term lease and leaseback transactions under chapter 54-01 for the repair and upkeep of campus buildings commonly referred to as deferred maintenance projects."

Page 1, line 21, after "to" insert "subsection 5 of"

Page 2, line 12, after "to" insert "subsection 5 of"

Page 4, line 7, after "in" insert "subsection 5 of"

Page 4, line 30, after "to" insert "subsection 5 of"

Page 5, line 13, after "under" insert "subsection 5 of"

Page 9, line 25, after "to" insert "subsection 5 of", after the first underscored comma insert "subsection 12 of section", and after the first "or" insert "subsection 23 of section"

Page 9, line 27, after the first "or" insert "subsection 23 of section"

Page 10, line 15, replace "constitutes" with "does not constitute"

Page 10, line 26, after the second "to" insert "subsection 5 of"

Page 10, line 27, after the first underscored comma insert "subsection 12 of section" and after the first "or" insert "subsection 23 of section"

Page 11, line 3, after the first "or" insert "subsection 23 of section"

Page 11, line 11, after "under" insert "subsection 5 of"

Page 11, line 14, after the first "to" insert "subsection 5 of"

Page 11, line 26, replace "sections" with "subsection 5 of section" and after "and" insert "section"

Page 11, line 29, after "to" insert "subsection 5 of"

Re-number accordingly

REPORT OF STANDING COMMITTEE

SB 2264: Judiciary Committee (Sen. Traynor, Chairman) recommends **DO NOT PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2264 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2312: 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 2312 was placed on the Sixth order on the calendar.

Page 1, line 10, remove "These standards supersede all existing state, county, city, and township"

Page 1, remove line 11

Page 1, line 12, remove "cities and counties, pertaining to installation of manufactured homes."

Re-number accordingly

REPORT OF STANDING COMMITTEE

SB 2313: Finance and Taxation Committee (Sen. Urlacher, Chairman) recommends **DO NOT PASS** (4 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2313 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2315: Finance and Taxation Committee (Sen. Urlacher, 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 2315 was placed on the Sixth order on the calendar.

Page 1, line 6, after the first comma insert "subsection 1 of section 57-43.1-21," replace the second "section" with "subsection 1 of section 57-43.3-23, subsection 1 of section 57-51-05, and sections", remove the third comma, and remove the third "section"

Page 1, line 9, after "excise" insert "and fuel"

Page 6, after line 22, insert:

"SECTION 12. AMENDMENT. Subsection 1 of section 57-43.1-21 of the North Dakota Century Code is amended and reenacted as follows:

1. If a person fails to file the required report or to pay the full amount of the tax as required by this chapter, there is imposed a penalty of five dollars, or a sum equal to five percent of the tax due, whichever is greater, with interest at the rate of sixty-seven hundredths of one percent per month on the tax due, for each calendar month or fraction of a month during which the delinquency continues, excepting the month within which the report was required to be filed or the tax became due. If a person files a false or fraudulent report with intent to evade the tax imposed by this chapter, there is imposed a penalty equal to ten percent of the deficiency, with interest at the rate of two one and six-tenths percent per month on the deficiency, for each calendar month or fraction of a month during which the deficiency continues. The commissioner, for good cause shown, may waive all or any part of the penalty or interest provided by this subsection."

Page 7, after line 3, insert:

"SECTION 14. AMENDMENT. Subsection 1 of section 57-43.3-23 of the North Dakota Century Code is amended and reenacted as follows:

1. If a person fails to file the required report or to pay the full amount of the tax as required by this chapter, there is imposed a penalty of five dollars, or a sum equal to five percent of the tax due, whichever is greater, with interest at the rate of sixty-seven hundredths of one percent per month on the tax due, for each calendar month or fraction of a month during which the delinquency continues, excepting the month within which the report was required to be filed or the tax became due. If a person files a false or fraudulent report with the intent to evade the tax imposed by this chapter, there is imposed a penalty equal to ten percent of the deficiency, with interest at the rate of ~~two~~ one and six-tenths percent per month on the deficiency, for each calendar month or fraction of a month during which the deficiency continues. The commissioner, for good cause shown, may waive all or any part of the penalty or interest provided by this subsection.

SECTION 15. AMENDMENT. Subsection 1 of section 57-51-05 of the North Dakota Century Code is amended and reenacted as follows:

1. The gross production tax on oil or gas, as herein provided, must be paid on a monthly basis. The tax on oil is due and payable on the twenty-fifth day of the month succeeding the month of production. The tax on gas is due and payable on the fifteenth day of the second month succeeding the month of production. If the tax is not paid as required by this section, it becomes delinquent and must be collected as provided in this chapter. The penalty does not apply if ninety percent of the tax due has been paid with the monthly return and the taxpayer files an amended monthly return and pays the total tax due within sixty days from the original due date. The commissioner, upon request and a proper showing of the necessity therefor, may grant an extension of time, not to exceed fifteen days, for paying the tax and when the request is granted the tax is not delinquent until the extended period has expired. Any taxpayer who requests and is granted an extension of time for filing a return shall pay, with the tax, interest at the rate of ~~twelve~~ eight percent per annum from the date the tax was due to the date the tax is paid."

Page 8, line 5, remove "and" and after "13" insert ", 14, 15, and 16"

Page 8, line 6, replace "Section" with "Sections" and replace "14" with "17"

Re-number accordingly

REPORT OF STANDING COMMITTEE

SB 2337: Finance and Taxation Committee (Sen. Urlacher, 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 2337 was placed on the Sixth order on the calendar.

Page 1, line 9, replace "two" with "one"

Re-number accordingly

REPORT OF STANDING COMMITTEE

SB 2365: Human Services Committee (Sen. J. Lee, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2365 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2378: Human Services Committee (Sen. J. Lee, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2378 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2380: Agriculture Committee (Sen. Flakoll, Chairman) recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2380 was rereferred to the **Appropriations Committee**.

REPORT OF STANDING COMMITTEE

SB 2406: Finance and Taxation Committee (Sen. Urlacher, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS**

(4 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2406 was placed on the Sixth order on the calendar.

Page 1, line 23, after the period insert "The term does not include the tax commissioner."

Page 9, line 22, after "commerce" insert ", the tax commissioner,"

Page 9, line 23, remove "with"

Page 10, line 3, after "commerce" insert ", the tax commissioner,"

Page 10, after line 7, insert:

- "8. If the development subsidy to be repaid was claimed on an income tax return filed by the recipient under chapter 57-38, the recipient shall file an amended return and pay any additional tax due attributable to the defaulted development subsidy within sixty calendar days of the delivery of the default notice. The time limits for audit and assessment under subsection 9 of section 57-38-38 apply to an amended return filed under this section.
9. Notwithstanding the time periods in section 57-38-38, if a recipient fails to file an amended return under subsection 8, the tax commissioner may assess any additional tax due attributable to the defaulted development subsidy within two years after the sixtieth calendar day following the tax commissioner's receipt of the default notice."

Page 10, line 8, replace "8." with "10."

Page 10, line 11, replace "9." with "11."

Renumber accordingly

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

WILLIAM R. HORTON, Secretary

