

JOURNAL OF THE SENATE

Fifty-fourth Legislative Assembly

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Bismarck, January 31, 1995

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

The prayer was offered by Pastor Jonathan Starks, Word of Faith Church, Bismarck.

The roll was called and all members were present except Senators Langley and Sand.

A quorum was declared by the President.

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM C. PARKER, SECRETARY)

MR. SPEAKER: The Senate has passed and your favorable consideration is requested on: SB 2215, SB 2253, SB 2267, SB 2278, SB 2289, SB 2295, SB 2303, SB 2321, SB 2322, SB 2336, SB 2337, SB 2338, SB 2346, SB 2404, SB 2431, SCR 4020.

MESSAGE TO THE SENATE FROM THE HOUSE (ROY GILBREATH, CHIEF CLERK)

MADAM PRESIDENT: The House has passed and your favorable consideration is requested on: HCR 3018.

MESSAGE TO THE SENATE FROM THE HOUSE (ROY GILBREATH, CHIEF CLERK)

MADAM PRESIDENT: The House has passed and your favorable consideration is requested on: HB 1036, HB 1199, HB 1240, HB 1287.

MOTION

SEN. GOETZ MOVED that SB 2011, which is on the Sixth order, be rereferred to the Appropriations Committee, which motion prevailed. Pursuant to Sen. Goetz's motion, SB 2011 was rereferred.

CONSIDERATION OF AMENDMENTS

SB 2024: SEN. NALEWAJA (Appropriations Committee) MOVED that the amendments on SJ pages 257-258 be adopted and then be placed on the Eleventh order with DO PASS, which motion prevailed.

THE SENATE RECOGNIZED THE PRESENCE OF:

Former Senator Jack Olin.

MOTION

SEN. KREBSBACH MOVED that SB 2121, which is on the Eleventh order, be rereferred to the Government and Veterans Affairs Committee, which motion prevailed. Pursuant to Sen. Krebsbach's motion, SB 2121 was rereferred.

CONSIDERATION OF AMENDMENTS

SB 2088: SEN. HEITKAMP (Natural Resources Committee) MOVED that the amendments on SJ page 258 be adopted and then be placed on the Eleventh order with DO PASS, which motion prevailed.

CONSIDERATION OF AMENDMENTS

SB 2146: SEN. CHRISTMANN (Natural Resources Committee) MOVED that the amendments on SJ page 258 be adopted and then be placed on the Eleventh order with DO PASS, which motion prevailed.

CONSIDERATION OF AMENDMENTS

SB 2177: SEN. MUSHIK (Appropriations Committee) MOVED that the amendments on SJ pages 258-259 be adopted and then be placed on the Eleventh order with DO PASS, which motion prevailed.

CONSIDERATION OF AMENDMENTS

SB 2236: SEN. W. STENEHJEM (Government and Veterans Affairs Committee) MOVED that the amendments on SJ page 259 be adopted and then be REREFERRED to the Appropriations Committee with DO PASS, which motion prevailed.

CONSIDERATION OF AMENDMENTS

SB 2257: SEN. GRINDBERG (Government and Veterans Affairs Committee) MOVED that the amendments on SJ pages 259-260 be adopted and then be placed on the Eleventh order with DO PASS, which motion prevailed.

MOTION

SEN. GOETZ MOVED that the Senate request the return of SB 2020 and SB 2027 from the House, which motion prevailed.

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM C. PARKER, SECRETARY)

MR. SPEAKER: The Senate respectfully requests the return of: SB 2020, SB 2027.

MOTION

SEN. G. NELSON MOVED that the Senate authorize the Judiciary Committee to act as an investigative committee with the powers and for the purposes provided in chapter 54-03.2 of the North Dakota Century Code in furtherance of the committee's consideration of SB 2067, SCR 4012 and related issues.

REQUEST

SEN. WOGSLAND REQUESTED a ruling by the President on the motion before the Senate based on section 797 of Mason's Manual of Legislative Procedure.

RULING BY THE PRESIDENT

PRESIDENT MYRDAL RULED the motion was out of order based on Mason's Manual of Legislative Procedure, section 797, number 7, which states that the "investigatory power of a legislative body is limited to obtaining information on matters which fall within its proper field of legislative action".

SEN. G. NELSON appealed the ruling by the chair.

SEN. WOGSLAND spoke in favor of sustaining the ruling by the chair.

REQUEST

SEN. KRAUTER REQUESTED a recorded roll call vote on the ruling by the chair, which request was granted.

ROLL CALL

The question being on the ruling by the chair, the roll was called and there were 19 YEAS, 28 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

YEAS: DeMers; Heinrich; Heitkamp; Kelsh; Kinnoin; Krauter; LaFountain; Lindaas; Mathern; Mushik; Nelson, C.; O'Connell; Redlin; Robinson; Scherber; Tallackson; Tomac; Wogsland; Yockim

NAYS: Andrist; Bowman; Christmann; Freborg; Goetz; Grindberg; Holmberg; Krebsbach; Kringstad; Lee; Lips; Mutch; Naaden; Nalewaja; Nelson, G.; Nething; Schobinger; Solberg; St. Aubyn; Stenehjem, B.; Stenehjem, W.; Streibel; Tennefos; Thane; Traynor; Urlacher; Wanzek; Watne

ABSENT AND NOT VOTING: Langley; Sand

The ruling by the chair was defeated.

MOTION

SEN. WOGSLAND MOVED that the motion be amended so that the investigative powers of the Judiciary Committee include Fish 'n Dakota and Governor Schafer's involvement in it.

REQUEST

SEN. DEMERS REQUESTED a recorded roll call vote on the adoption of the amendment, which request was granted.

ROLL CALL

The question being on the adoption of the amendment to the motion, the roll was called and there were 20 YEAS, 27 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

YEAS: DeMers; Heinrich; Heitkamp; Kelsh; Kinnoin; Krauter; LaFountain; Lindaas; Mathern; Mushik; Nelson, C.; O'Connell; Redlin; Robinson; Scherber; Tallackson; Tennefos; Tomac; Wogsland; Yockim

NAYS: Andrist; Bowman; Christmann; Freborg; Goetz; Grindberg; Holmberg; Krebsbach; Kringstad; Lee; Lips; Mutch; Naaden; Nalewaja; Nelson, G.; Nething; Schobinger; Solberg; St. Aubyn; Stenehjem, B.; Stenehjem, W.; Streibel; Thane; Traynor; Urlacher; Wanzek; Watne

ABSENT AND NOT VOTING: Langley; Sand

The amendment failed.

REQUEST

SEN. TENNEFOS REQUESTED that the Journal reflect that his vote on the preceding amendment to Sen. G. Nelson's motion was intended to be NAY, which request was granted.

RESTATEMENT OF MOTION

SEN. G. NELSON restated the motion that the Senate authorize the **Judiciary Committee** to act as an investigative committee with the powers and for the purposes provided in chapter 54-03.2 of the North Dakota Century Code in furtherance of the committee's consideration of SB 2067, SCR 4012 and related issues, which motion prevailed on a voice vote.

SECOND READING OF SENATE BILL

SB 2054: A BILL for an Act to amend and reenact section 15-40.1-05 of the North Dakota Century Code, relating to the distribution of payments to school districts.

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, 0 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

YEAS: Andrist; Bowman; Christmann; DeMers; Freborg; Goetz; Grindberg; Heinrich; Heitkamp; Holmberg; Kelsh; Kinnoin; Krauter; Krebsbach; Kringstad; LaFountain; Lee; Lindaas; Lips; Mathern; Mushik; Naaden; Nalewaja; Nelson, C.; Nelson, G.; Nething; O'Connell; Redlin; Robinson; Scherber; Schobinger; Solberg; St. Aubyn; Stenehjem, B.; Stenehjem, W.; Streibel; Tallackson; Tennefos; Thane; Tomac; Traynor; Urlacher; Wanzek; Watne; Wogsland; Yockim

ABSENT AND NOT VOTING: Langley; Mutch; Sand

Engrossed SB 2054 passed and the title was agreed to.

SECOND READING OF SENATE BILL

SB 2040: A BILL for an Act to amend and reenact subsection 1 of section 12.1-32-02 and section 12.1-32-06.1 of the North Dakota Century Code, relating to sentencing alternatives and to an additional period of probation that may be imposed for a person found guilty of a sexual offense against a minor.

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, 0 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

YEAS: Andrist; Bowman; Christmann; DeMers; Freborg; Goetz; Grindberg; Heinrich; Heitkamp; Holmberg; Kelsh; Kinnoin; Krauter; Krebsbach; Kringstad; LaFountain; Lee; Lindaas; Lips; Mathern; Mushik; Mutch; Naaden; Nalewaja; Nelson, C.; Nelson, G.; Nething; O'Connell; Redlin; Robinson; Scherber; Schobinger; Solberg; St. Aubyn; Stenehjem, B.; Stenehjem, W.; Streibel; Tennefos; Thane; Tomac; Traynor; Urlacher; Wanzek; Watne; Wogsland; Yockim

ABSENT AND NOT VOTING: Langley; Sand; Tallackson

Engrossed SB 2040 passed and the title was agreed to.

SECOND READING OF SENATE BILL

SB 2224: A BILL for an Act to amend and reenact subsection 1 of section 23-12-13 of the North Dakota Century Code, relating to the order of priority of persons authorized to provide informed consent to health care for an incapacitated person.

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, 0 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

YEAS: Andrist; Bowman; Christmann; DeMers; Freborg; Goetz; Grindberg; Heinrich; Heitkamp; Holmberg; Kelsh; Kinnoin; Krauter; Krebsbach; Kringstad; LaFountain; Lee; Lindaas; Lips; Mathern; Mushik; Mutch; Naaden; Nalewaja; Nelson, C.; Nelson, G.; Nething; O'Connell; Redlin; Robinson; Scherber; Schobinger; Solberg; St. Aubyn; Stenehjem, B.; Stenehjem, W.; Streibel; Tennefos; Thane; Tomac; Traynor; Urlacher; Wanzek; Watne; Wogsland; Yockim

ABSENT AND NOT VOTING: Langley; Sand; Tallackson

Engrossed SB 2224 passed and the title was agreed to.

SECOND READING OF SENATE BILL

SB 2049: A BILL for an Act to provide an appropriation for additional North Dakota governor's schools.

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 15 YEAS, 31 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

YEAS: DeMers; Heinrich; Heitkamp; Kelsh; LaFountain; Lindaas; Mathern; Mushik; Nelson, C.; O'Connell; Redlin; Robinson; Scherber; Wogsland; Yockim

NAYS: Andrist; Bowman; Christmann; Freborg; Goetz; Grindberg; Holmberg; Kinnoin; Krauter; Krebsbach; Kringstad; Lee; Lips; Mutch; Naaden; Nalewaja; Nelson, G.; Nething; Schobinger; Solberg; St. Aubyn; Stenehjem, B.; Stenehjem, W.; Streibel; Tennefos; Thane; Tomac; Traynor; Urlacher; Wanzek; Watne

ABSENT AND NOT VOTING: Langley; Sand; Tallackson

SB 2049 lost.

SECOND READING OF SENATE BILL

SB 2051: A BILL for an Act providing an appropriation for the development and implementation of professional development plans by school districts.

MOTION

SEN. O'CONNELL MOVED that SB 2051 be amended as follows:

Page 1, line 6, replace "\$500,000" with "\$250,000"

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

DEPARTMENT 201 - DEPARTMENT OF PUBLIC INSTRUCTION

SENATE - This amendment reduced funding for the development and implementation of school districts professional development plans by \$250,000 from the general fund, from \$500,000 to \$250,000.

REQUEST

SEN. O'CONNELL REQUESTED a recorded roll call vote on the motion to adopt the proposed amendments to SB 2051, which request was granted.

ROLL CALL

The question being on the motion to adopt the proposed amendments to SB 2051, the roll was called and there were 22 YEAS, 24 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

YEAS: Bowman; DeMers; Heinrich; Heitkamp; Kelsh; Kinnoin; Krauter; Krebsbach; LaFountain; Lindaas; Mathern; Mushik; Nelson, C.; O'Connell; Redlin; Robinson; Scherber; Stenehjem, B.; Tomac; Traynor; Wogsland; Yockim

NAYS: Andrist; Christmann; Freborg; Goetz; Grindberg; Holmberg; Kringstad; Lee; Lips; Mutch; Naaden; Nalewaja; Nelson, G.; Nething; Schobinger; Solberg; St. Aubyn; Stenehjem, W.; Streibel; Tennefos; Thane; Urlacher; Wanzek; Watne

ABSENT AND NOT VOTING: Langley; Sand; Tallackson

The proposed amendments to SB 2051 failed.

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 15 YEAS, 31 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

YEAS: DeMers; Heinrich; Heitkamp; Kelsh; LaFountain; Lindaas; Mathern; Mushik; Nelson, C.; O'Connell; Redlin; Robinson; Scherber; Wogsland; Yockim

NAYS: Andrist; Bowman; Christmann; Freborg; Goetz; Grindberg; Holmberg; Kinnoin; Krauter; Krebsbach; Kringstad; Lee; Lips; Mutch; Naaden; Nalewaja; Nelson, G.; Nething; Schobinger; Solberg; St. Aubyn; Stenehjem, B.; Stenehjem, W.; Streibel; Tennefos; Thane; Tomac; Traynor; Urlacher; Wanzek; Watne

ABSENT AND NOT VOTING: Langley; Sand; Tallackson

SB 2051 lost.

SECOND READING OF SENATE BILL

SB 2052: A BILL for an Act to appropriate funds for professional development centers.

MOTION

SEN. HEINRICH MOVED that SB 2052 be amended as follows:

Page 1, line 5, replace "\$640,000" with "\$320,000"

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

DEPARTMENT 201 - DEPARTMENT OF PUBLIC INSTRUCTION

SENATE - This amendment reduces the appropriation to the Superintendent of Public Instruction for funding professional development centers by \$320,000 from the general fund, from \$640,000 to \$320,000.

REQUEST

SEN. WOGSLAND REQUESTED a recorded roll call vote on the motion to adopt the proposed amendments to SB 2052, which request was granted.

ROLL CALL

The question being on the motion to adopt the proposed amendments to SB 2052, the roll was called and there were 24 YEAS, 22 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

YEAS: Bowman; DeMers; Heinrich; Heitkamp; Kelsh; Kinnoin; Krauter; Kringstad; LaFountain; Lindaas; Lips; Mathern; Mushik; Nelson, C.; O'Connell; Redlin; Robinson; Scherber; Stenehjem, B.; Thane; Tomac; Watne; Wogsland; Yockim

NAYS: Andrist; Christmann; Freborg; Goetz; Grindberg; Holmberg; Krebsbach; Lee; Mutch; Naaden; Nalewaja; Nelson, G.; Nething; Schobinger; Solberg; St. Aubyn; Stenehjem, W.; Streibel; Tennefos; Traynor; Urlacher; Wanzek

ABSENT AND NOT VOTING: Langley; Sand; Tallackson

The proposed amendments to SB 2052 were adopted.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO NOT PASS, the roll was called and there were 17 YEAS, 29 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

YEAS: DeMers; Heinrich; Heitkamp; Kelsh; LaFountain; Lindaas; Lips; Mathern; Mushik; Nelson, C.; O'Connell; Redlin; Robinson; Scherber; Thane; Wogsland; Yockim

NAYS: Andrist; Bowman; Christmann; Freborg; Goetz; Grindberg; Holmberg; Kinnoin; Krauter; Krebsbach; Kringstad; Lee; Mutch; Naaden; Nalewaja; Nelson, G.; Nething; Schobinger; Solberg; St. Aubyn; Stenehjem, B.; Stenehjem, W.; Streibel; Tennefos; Tomac; Traynor; Urlacher; Wanzek; Watne

ABSENT AND NOT VOTING: Langley; Sand; Tallackson

Engrossed SB 2052 lost.

MOTION

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

MOTION

SEN. GOETZ 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, February 1, 1995, which motion prevailed.

REPORT OF STANDING COMMITTEE

SB 2010: Appropriations Committee (Sen. Nething, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (12 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). SB 2010 was placed on the Sixth order on the calendar.

Page 1, replace lines 13 through 15 with:

"Salaries and wages	\$3,640,378
Operating expenses	1,314,123
Equipment	<u>228,599</u>

Page 1, line 16, replace "10,383,100" with "5,183,100"

Page 1, after line 16, insert:

"SECTION 2. APPROPRIATION - INSURANCE TAX PAYMENTS TO FIRE DEPARTMENTS. There is hereby appropriated out of any moneys in the insurance tax distribution fund in the state treasury, not otherwise appropriated, the sum of \$5,200,000, or so much of the sum as may be necessary, to the commissioner of insurance for the purpose of making payments of insurance premiums to fire departments for the biennium beginning July 1, 1995, and ending June 30, 1997."

Page 2, remove lines 12 through 16

Re-number accordingly

STATEMENT OF PURPOSE OF AMENDMENT:**DEPARTMENT 35 - INSURANCE TAX PAYMENTS TO FIRE DEPARTMENTS**

SENATE - The appropriation of \$5,200,000 from the insurance tax distribution fund for fire department payments is removed from the insurance department's appropriation and appropriated in a separate section.

DEPARTMENT 401 - INSURANCE COMMISSIONER

SENATE - This amendment provides object code-based line items for the Insurance Commissioner's appropriation rather than program-based line items. The Insurance Commissioner administers only one program - consumer protection.

Although the line items contained in the bill are changed to object code-based line items, the agency is expected to monitor and strive to achieve its performance measure goals and objectives.

The \$5,200,000 appropriation from the insurance tax distribution fund for fire department payments is removed from the Insurance Department's appropriation and provided for in a separate section.

REPORT OF STANDING COMMITTEE

SB 2060: Education Committee (Sen. Freborg, Chairman) recommends **DO NOT PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2060 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2063: Education Committee (Sen. Freborg, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (4 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). SB 2063 was placed on the Sixth order on the calendar.

Page 1, line 3, after "reenact" insert "subsection 3 of section 15-40.1-06, subsection 6 of section 15-40.2-08,", after "sections" insert "15-59-02.1,", and after "15-59-06" insert a comma

Page 1, line 10, remove "all"

Page 1, line 11, after "for" insert "per student" and replace ", less the sum of twelve" with "payments"

Page 1, line 12, remove "million dollars."

Page 1, line 13, remove "In determining the amount of payments"

Page 1, remove lines 14 through 16

Page 1, line 17, replace "provided" with ", as calculated under subsection 3 of section 15-40.1-06,"

Page 1, line 18, remove "for in this section"

Page 1, after line 19, insert:

"SECTION 2. AMENDMENT. Subsection 3 of section 15-40.1-06 of the North Dakota Century Code is amended and reenacted as follows:

3. In determining the amount of payments due school districts for per student ~~and transportation~~ aid under this section, the amount of ~~per student~~ foundation aid, special education aid, and transportation aid for which a school district is eligible must be added together, and from that total, the following amounts must be subtracted:
 - a. The product of twenty-three mills for the 1993-94 school year and twenty-four mills for each year thereafter times the latest available net assessed and equalized valuation of property of the school district.
 - b. The amount that the unobligated general fund balance of a school district on the preceding June thirtieth is in excess of three-fourths of the actual expenditures, plus an additional twenty thousand dollars.

SECTION 3. AMENDMENT. Subsection 6 of section 15-40.2-08 of the North Dakota Century Code is amended and reenacted as follows:

6. An amount equal to the state average ~~per pupil~~ per student elementary or high school costs, depending on the educational level of the student, is payable to the admitting district or facility as part of the cost of educating the student for the school year. The payment may not exceed the actual ~~per pupil~~ per student cost incurred by the admitting district or facility. The remainder of the actual cost of educating the student not covered by other payments or credits must be paid by the state from funds appropriated for special education in the case of a student with disabilities, or from funds appropriated for foundation aid in all other cases within the limits of legislative appropriations.

SECTION 4. AMENDMENT. Section 15-59-02.1 of the North Dakota Century Code is amended and reenacted as follows:

15-59-02.1. Legislative intent - Special education. This statement of legislative intent is provided to define more clearly the relationship between the state, school districts, and parents of ~~children~~ students with disabilities in the provision of special education and related services. "Related services" means transportation and such developmental and corrective or supportive services required to assist a ~~child~~ student with disabilities to benefit from special education.

The school administrator or the administrator's appointed representative or director of special education other than the ~~child's~~ student's teacher is responsible for bringing together professionals and parents to share assessment information related to all areas of suspected disability, develop an individualized education program plan for the student with disabilities, and make recommendations for required special education and related services.

The legislative assembly believes that in order to assure equality of services which are provided for by limited state funds, the department of public instruction will be required to approve a contract for services based on an individualized education program developed for each student with disabilities placed in a private school program or in programs outside the student's original special education unit.

~~The legislative assembly believes that when money is distributed to a school district for special education personnel, the department of public instruction should give consideration to the units of services provided by the district, the district's special education program costs, and the district's special education program needs.~~

The legislative assembly recognizes that a student with disabilities whose individualized education program so requires is entitled to an educational program in excess of one hundred eighty days per year if regression caused by an interruption in educational programming, together with a student's limited recoupment capacity, renders it impossible or unlikely that the student will attain the level of self-sufficiency and independence from caretakers that the student would otherwise be expected to reach in view of the disability. All summer programs attended by these students must have approval of the department of public instruction before receiving foundation aid or state special education reimbursement.

In the case of students with disabilities who require boarding care away from the family residence in order to receive special education and related services in an approved program, it is the intent of the legislative assembly that the instructional costs and costs of related services, including boarding care, be borne by state special education funds and school district funds.

"All ~~children~~ students with disabilities have the right to a free appropriate education" means that all students with disabilities have the right to special education and related services which must be provided at no cost to parents. "At no cost" means specifically designed instruction provided without charge but does not preclude expenses normally incurred or charged to parents of ~~children~~ students who are nondisabled. Parents will assume such costs for a ~~child~~ student with disabilities as they would if the ~~child~~ student was nondisabled. Personal items, including hearing aids, eyeglasses, routine medical expenses, physical exams, medications, and all items necessary for a ~~child~~ student who is nondisabled, will be the financial responsibility of the parent.

School districts must require use of family insurance, or similar third-party payments, in whatever amount is allowed, as long as there is no financial loss to the ~~child student~~ or the ~~child's student's~~ parent, for determining a ~~child's student's~~ medically related disability or other required related services which results in the ~~child's student's~~ need for special education. It is the school district's responsibility to assume costs not covered by the insurer or similar third party in the above situation.

The school district in which a student with disabilities resides is responsible to provide transportation for the student as prescribed in the student's individualized education program.

Costs of transportation for the student to attend an approved special education program are the responsibility of the school district with aid from the department of public instruction.

The district of residence may use any reasonably prudent and safe means of transportation at its disposal to carry out the requirements of the individualized education program. Such means may include a regularly scheduled schoolbus, public or commercial transportation where appropriate, charter or specially contracted transportation, or transportation provided by the parent of a ~~child student~~ with disabilities or other responsible party at school district expense.

If the transportation between the district of residence and the educational facility is provided by the parents, the reimbursement to the school district from department of public instruction funds must be for mileage costs only and may not include per diem costs for meals, lodging, lost wages, or other costs of any kind.

As the department of human services has authority under chapter 25-16 to provide early intervention services to meet the needs of children with disabilities ages zero through two years, the legislative assembly recognizes this provision and requires the department of public instruction, the state department of health and consolidated laboratories, and the department of human services to cooperate in planning and coordinating programs for these children."

Page 2, line 2, overstrike "enrolled in approved programs of" and insert immediately thereafter "receiving" and after "education" insert "services"

Page 2, line 19, overstrike "Upon" and overstrike "determination by the director of special education that the"

Page 2, line 20, overstrike "school district has made expenditures for each"

Page 2, line 21, remove "special needs student" and overstrike "in such program equal to the"

Page 2, line 22, overstrike "average expenditures made in", remove "the", and overstrike "district for"

Page 2, line 23, remove "other", overstrike "students," and overstrike "the director by vouchers drawn upon funds"

Page 2, line 24, overstrike "provided by the legislative assembly for", remove "the", and overstrike "purpose may provide"

Page 2, line 25, overstrike "reimbursement to", remove "the", and overstrike "school or school district."

Page 2, line 29, overstrike "a"

Page 3, line 2, after "education" insert "the student's"

Page 3, line 6, overstrike "facilities" and insert immediately thereafter "services"

Page 3, line 9, overstrike "curriculum" and insert immediately thereafter "services"

Page 3, line 27, overstrike "provided by the" and insert immediately thereafter "within the limits of"

Page 3, line 28, overstrike "assembly" and insert immediately thereafter "appropriations"

Page 4, line 6, overstrike "a"

Page 4, line 7, after "~~superintendent~~" insert "the student's"

Page 4, line 12, overstrike "are" and insert immediately thereafter "is"

Page 4, line 13, overstrike "schools" and insert immediately thereafter "school", replace "have" with "has", and overstrike "facilities" and insert immediately thereafter "services"

Page 4, line 17, overstrike "curriculum" and insert immediately thereafter "services"

Page 5, overstrike lines 2 through 4

Page 5, line 5, overstrike "rate not to exceed that paid state officials."

Page 5, line 10, overstrike "The reimbursement" and overstrike "provided to the contracting district from"

Page 5, overstrike lines 11 and 12

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2072: Natural Resources Committee (Sen. Traynor, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (6 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). SB 2072 was placed on the Sixth order on the calendar.

Page 4, line 21, replace "may not receive" with "is not eligible to apply for", and replace "under" with "to hunt elk in future years but is eligible to participate in the rocky mountain elk foundation raffle under section 20.1-08-04.6"

Page 4, remove line 22

Page 4, line 23, remove "transferred"

Page 6, line 21, overstrike "only upon"

Page 6, line 22, overstrike "that land."

Page 6, line 24, after the overstruck period insert "within the district or unit in which the land described in the affidavit is located."

Page 7, replace line 3 with "is not eligible to apply for a license to hunt moose in future years but is eligible to participate in the North Dakota game warden association raffle under section 20.1-08-04.2"

Page 7, line 4, remove "which eligibility was transferred"

Page 7, line 19, after the period insert "If a person receives a license under this subsection, the person's spouse, children, and parents living with the person are not eligible to receive a license under this subsection for the district or unit in which the land described in the affidavit is located, unless the person has sold or otherwise transferred the person's rights to the land described in the affidavit."

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2166: Finance and Taxation Committee (Sen. Tennesfos, Chairman) recommends **DO NOT PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2166 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2186: Human Services Committee (Sen. Thane, Chairman) recommends **DO NOT PASS** (4 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). SB 2186 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2193: Education Committee (Sen. Freborg, Chairman) recommends **DO PASS** (4 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). SB 2193 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2197: 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 2197 was placed on the Sixth order on the calendar.

Page 1, line 1, replace "section" with "sections" and after "5-01-04" insert "and 5-01-08"

Page 1, line 7, after "use" insert ", and not for sale,"

Page 2, after line 2, insert:

"SECTION 2. AMENDMENT. Section 5-01-08 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

5-01-08. Persons under twenty-one years of age prohibited from manufacturing, purchasing, consuming, or possessing alcoholic beverages or entering licensed premises - Penalty - Exceptions - Referrals to addiction facilities. Except as permitted in this section and section 5-02-06, any person under twenty-one years of age manufacturing or attempting to manufacture alcoholic beverages, purchasing or attempting to purchase alcoholic beverages, consuming alcoholic beverages other than during a religious service, being under the influence of alcoholic beverages, or being in possession of alcoholic beverages, or furnishing money to any person for such purchase, or entering any licensed premises where alcoholic beverages are being sold or displayed, except a restaurant when accompanied by a parent or legal guardian, or in accordance with section 5-02-06, or if the person is a law enforcement officer entering the premises in the performance of official duty, is guilty of a class B misdemeanor. The court may, under this section, refer the person to an outpatient addiction facility licensed by the state department of human services for evaluation and appropriate counseling or treatment."

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2198: 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 2198 was placed on the Sixth order on the calendar for immediate second reading.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact subsection 7 of section 5-01-01, sections 5-01-11, 5-01-14, 5-03-03, and subsection 2 of section 5-03-04 of the North Dakota Century Code, relating to microbrew pubs.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 7 of section 5-01-01 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

7. "Microbrew pub" means a brewer that brews ~~twenty-five~~ ten thousand or fewer barrels of beer per week year and sells beer produced or manufactured on the premises for consumption on or off the premises, or serves beer produced or manufactured on the premises for purposes of sampling the beer.

SECTION 2. AMENDMENT. Section 5-01-11 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

5-01-11. Unfair competition - Penalty. A manufacturer may not have any financial interest in any wholesale alcoholic beverage business. A manufacturer or wholesaler may not have any financial interest in any retail alcoholic beverage establishment and may not furnish any such retailer with anything of value. A retailer may not have any financial interest in any manufacturer, supplier, or wholesaler. A wholesaler may:

1. Extend normal commercial credits to retailers for industry products sold to them. The state treasurer may determine by regulation the definition of "normal commercial credits" for each segment of the industry.
2. Furnish retailers with beer containers and equipment for dispensing of tap beer if the expense does not exceed fifty dollars per tap per calendar year.
3. Furnish outside signs to retailers if the sign cost does not exceed one hundred dollars exclusive of costs of erection and repair.
4. Furnish miscellaneous materials to retailers not to exceed one hundred dollars per year. "Miscellaneous materials" not subject to this limitation include any indoor point-of-sale items for retail placement. Point-of-sale items include back bar signs, pool table lights, neon window signs, and items of a similar nature. The point-of-sale items must be limited to two hundred fifty dollars per retail account from the wholesaler for each of the wholesaler's brewers or suppliers. The state treasurer may, to keep current with market conditions, adjust the limitation amount for the point-of-sale items on an annual basis upon consultation with representatives of the alcohol beverage industry.

Any wholesaler, retailer, or manufacturer violating this section, or any rule adopted to implement this section, and any retailer receiving benefits thereby, is guilty of a class A misdemeanor. ~~This section does not apply to a~~ A microbrew pub is exempt from the provisions of this section to the extent that this section restricts the coownership

of a manufacturer's license and a retail license for the purpose of a microbrew pub.

SECTION 3. AMENDMENT. Section 5-01-14 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

5-01-14. Microbrew pubs - Licensing - Taxes. A microbrew pub shall obtain a brewer license and a retailer license as required under this title. A microbrew pub may manufacture on the licensed premises, store, transport, sell to wholesale malt beverage licensees, and export no more than ten thousand barrels of malt beverages annually; sell malt beverages manufactured on the licensed premises; and sell alcoholic beverages regardless of source to consumers for consumption on the microbrew pub's licensed premises. A microbrew pub may not engage in any wholesaling activities. All sales and delivery of malt beverages to any other retail licensed premises may be made only through a wholesale malt beverage licensee. Beer manufactured on the licensed premises and sold by a microbrew pub is liable for directly to the consumer for consumption on or off the premises is subject to the taxes imposed pursuant to section 5-03-07, in addition to any other taxes imposed on brewers and retailers. A microbrew pub is not precluded from retailing beer it purchases from a wholesaler. Complimentary samples of beer may not be in an amount exceeding sixteen ounces per patron. All beer sold for offpremise consumption must be in two to three gallon brewery sealed containers.

SECTION 4. AMENDMENT. Section 5-03-03 of the North Dakota Century Code is amended and reenacted as follows:

5-03-03. Bond required. Each microbrew pub or wholesale beer or liquor dealer shall file with the state treasurer a bond in such amount and form as the state treasurer may require, to be conditioned upon compliance with all the provisions of this chapter, not to exceed fifty thousand dollars for any licensee.

SECTION 5. AMENDMENT. Subsection 2 of section 5-03-04 of the North Dakota Century Code is amended and reenacted as follows:

2. Liquor wholesalers shall make the payments based on the total gallonage sold the preceding calendar month. Beer wholesalers shall make the payments based on the total gallonage purchased from brewers the preceding calendar month. Microbrew pubs shall make payments based on the total gallonage sold on premises during the preceding calendar month."

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2274: Political Subdivisions Committee (Sen. Urlacher, Chairman) recommends **DO NOT PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2274 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2279: Transportation Committee (Sen. B. Stenehjem, Chairman) recommends **DO NOT PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2279 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2315: Judiciary Committee (Sen. W. Stenehjem, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 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 period insert "As used in this section, "conduct" means any brutal treatment or forced physical activity that is likely to adversely affect the physical health or safety of that other person or a third person, or which subjects that other person or third person to extreme mental stress, and includes extended deprivation of sleep or rest or extended isolation, whipping, beating, branding, forced calisthenics, overexposure to the weather, and forced consumption of any food, liquor, beverage, drug, or other substance."

Re-number accordingly

REPORT OF STANDING COMMITTEE

SB 2329: Judiciary Committee (Sen. W. Stenehjem, Chairman) recommends DO NOT PASS (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2329 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2332: Judiciary Committee (Sen. W. Stenehjem, Chairman) recommends DO PASS (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2332 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2391: Finance and Taxation Committee (Sen. Tennefos, Chairman) recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2391 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2401: Judiciary Committee (Sen. W. Stenehjem, Chairman) recommends DO NOT PASS (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2401 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2427: Finance and Taxation Committee (Sen. Tennefos, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (4 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING). SB 2427 was placed on the Sixth order on the calendar.

Page 2, line 6, remove "the tax commissioner."

Page 2, line 7, replace ", may" with "and within thirty days after the notice of the request has been given to the taxpayer, the tax commissioner shall"

Page 2, line 10, remove "The tax commissioner shall inform the taxpayer that"

Page 2, line 11, remove "a request has been made for the information."

Page 3, line 25, remove "the tax"

Page 3, line 26, remove "commissioner."

Page 3, line 27, replace ", may" with "and within thirty days after the notice of the request has been given to the taxpayer, the tax commissioner shall"

Page 3, line 29, remove "The tax commissioner shall inform the taxpayer"

Page 4, line 1, remove "that a request has been made for the information."

Re-number accordingly

REPORT OF STANDING COMMITTEE

SB 2435: Judiciary Committee (Sen. W. Stenehjem, Chairman) recommends DO PASS (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2435 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2479: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends **DO PASS** (5 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). SB 2479 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2518: Finance and Taxation Committee (Sen. Tennefos, Chairman) recommends **DO PASS** (6 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). SB 2518 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2532: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends **DO PASS** (4 YEAS, 1 NAY, 2 ABSENT AND NOT VOTING). SB 2532 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SCR 4009: Human Services Committee (Sen. Thane, Chairman) recommends **DO PASS** and **BE PLACED ON THE CONSENT CALENDAR** (5 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SCR 4009 was placed on the Tenth order on the calendar.

REPORT OF STANDING COMMITTEE

SCR 4022: Finance and Taxation Committee (Sen. Tennefos, Chairman) recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SCR 4022 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1138: Political Subdivisions Committee (Sen. Urlacher, Chairman) recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1138 was placed on the Fourteenth order on the calendar.

FIRST READING OF SENATE CONCURRENT RESOLUTION

Sens. Watne, LaFountain introduced:

SCR 4046: A concurrent resolution directing the Legislative Council to study the feasibility and desirability of providing gambling addiction treatment and counseling services to state residents.

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

FIRST READING OF HOUSE BILLS

HB 1036: A BILL for an Act to amend and reenact section 15-36-11 of the North Dakota Century Code, relating to teacher certification; to repeal section 15-36-07 of the North Dakota Century Code, relating to citizenship requirements for teacher certification; to provide an effective date; and to declare an emergency.

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

HB 1199: A BILL for an Act to provide for the regulation of prize notices; and to provide a penalty.

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

HB 1240: A BILL for an Act to amend and reenact section 53-06.1-07.2 of the North Dakota Century Code, relating to draw poker and stud poker.

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

HB 1287: A BILL for an Act to create and enact a new section to chapter 65-02 of the North Dakota Century Code, relating to requiring a hearing officer of the workers compensation bureau to be a person licensed to practice law in this state.

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

FIRST READING OF HOUSE CONCURRENT RESOLUTION

HCR 3018: A concurrent resolution calling for a Conference of the States to be promoted and convened by the Council of State Governments.

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

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

William C. Parker, Secretary