

JOURNAL OF THE SENATE

Fifty-fourth Legislative Assembly

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Bismarck, February 6, 1995

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

The prayer was offered by Keith Schulte, The Spiritual Assembly of the Baha'is of Bismarck.

The roll was called and all members were present.

A quorum was declared by the President.

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

MADAM PRESIDENT: The Speaker has signed: SB 2071.

DELIVERY OF ENROLLED BILLS AND RESOLUTIONS

The following bill was delivered to the Governor for his approval at the hour of 3:23 p.m., February 6, 1995: SB 2071.

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 2010, SB 2063, SB 2072, SB 2220, SB 2258, SB 2266, SB 2270, SB 2315, SB 2391, SCR 4025.

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 1190, HB 1206, HB 1219, HB 1224, HB 1225, HB 1227, HB 1228, HB 1252, HB 1329.

CONSIDERATION OF AMENDMENTS

SB 2057: SEN. GRINDBERG (Education Committee) MOVED that the amendments on SJ page 325 be adopted and then be placed on the Eleventh order with DO NOT PASS, which motion prevailed.

CONSIDERATION OF AMENDMENTS

SB 2139: SEN. SCHERBER (Industry, Business and Labor Committee) MOVED that the amendments on SJ page 326 be adopted and then be placed on the Eleventh order with DO PASS, which motion prevailed.

CONSIDERATION OF AMENDMENTS

SB 2059: SEN. SCHOBINGER (Education Committee) MOVED that the amendments on SJ pages 325-326 be adopted and then be placed on the Eleventh order with DO PASS, which motion prevailed.

CONSIDERATION OF AMENDMENTS

SB 2234: SEN. DEMERS (Political Subdivisions Committee) MOVED that the amendments on SJ page 326 be adopted and then be placed on the Eleventh order with DO PASS, which motion prevailed.

CONSIDERATION OF AMENDMENTS

SB 2360: SEN. SCHERBER (Industry, Business and Labor Committee) MOVED that the amendments on SJ page 327 be adopted and then be placed on the Eleventh order with DO PASS, which motion prevailed.

CONSIDERATION OF AMENDMENTS

SB 2364: SEN. KREBSBACH (Industry, Business and Labor Committee) MOVED that the amendments on SJ pages 327-328 be adopted and then be placed on the Eleventh order with DO PASS, which motion prevailed.

MOTION

SEN. GOETZ MOVED that SB 2364 be placed on the Eleventh order, as amended, for second reading and final passage, which motion prevailed.

SECOND READING OF SENATE BILL

SB 2364: A BILL for an Act to create and enact a new section to chapter 6-01 of the North Dakota Century Code, relating to liability of bank officers and directors; and to provide for retroactive application.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 49 YEAS, 0 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

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

Engrossed SB 2364 passed and the title was agreed to.

CONSIDERATION OF AMENDMENTS

SB 2519: SEN. WANZEK (Education Committee) MOVED that the amendments on SJ page 328 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 2427: A BILL for an Act to amend and reenact subsection 1 of section 57-38-57 of the North Dakota Century Code and section 57-39.2-23 of the North Dakota Century Code as amended by section 149 of chapter 82 of the 1985 Session Laws, relating to the confidentiality of sales, use, and income tax return information; and to provide an effective date.

MOTION

SEN. TOMAC MOVED that Engrossed SB 2427 be amended as follows, which motion prevailed.

Page 2, line 8, replace "within" with "not less than"

Page 3, line 26, replace "within" with "not less than"

ReNUMBER accordingly

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 44 YEAS, 5 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

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

NAYS: Christmann; Naaden; Schobinger; Solberg; Traynor

Reengrossed SB 2427 passed and the title was agreed to.

SECOND READING OF SENATE BILL

SB 2079: A BILL for an Act to create and enact a new section to chapter 49-21 of the North Dakota Century Code, relating to the regulatory reform review commission; to provide an expiration date; and to declare an emergency.

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 49 YEAS, 0 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

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

Engrossed SB 2079 passed, the title was agreed to, and the emergency clause was declared carried.

SECOND READING OF SENATE BILL

SB 2149: A BILL for an Act to create and enact a new section to chapter 18-01 of the North Dakota Century Code, relating to the state fire marshal authorizing fire and safety inspections to be performed by other agencies of government; and to amend and reenact section 18-01-02, subsection 3 of section 18-01-05.1, and section 23-09.3-04 of the North Dakota Century Code, relating to the duties of the state fire marshal, release of information to the state fire marshal or a law enforcement officer, and fire safety inspections of basic care facilities.

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 49 YEAS, 0 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

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

Reengrossed SB 2149 passed and the title was agreed to.

SECOND READING OF SENATE BILL

SB 2238: A BILL for an Act to amend and reenact section 11-18-02.2 of the North Dakota Century Code, relating to statements of full consideration for property deeds.

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 43 YEAS, 6 NAYS, 0 EXCUSED, 0 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.; O'Connell; Redlin; Robinson; Sand; Scherber; Schobinger; Solberg; St. Aubyn; Stenehjem, B.; Tallackson; Thane; Tomac; Urlacher; Wanzek; Watne; Wogsland; Yockim

NAYS: Langley; Nething; Stenehjem, W.; Streibel; Tennefos; Traynor

Engrossed SB 2238 passed and the title was agreed to.

SECOND READING OF SENATE BILL

SB 2260: A BILL for an Act to create and enact a new section to chapter 54-35 of the North Dakota Century Code, relating to the establishment of a legislative ethics committee.

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 48 YEAS, 1 NAY, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

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

NAYS: Naaden

Engrossed SB 2260 passed and the title was agreed to.

SECOND READING OF SENATE BILL

SB 2280: A BILL for an Act to amend and reenact subsection 16 of section 65-01-02 of the North Dakota Century Code, relating to the definition of employer for workers' compensation purposes.

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 49 YEAS, 0 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

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

Engrossed SB 2280 passed and the title was agreed to.

SECOND READING OF SENATE BILL

SB 2344: A BILL for an Act to create and enact four new subsections to section 1-01-49 and sections 10-31-02.2, 10-31-03.2, 10-31-07.3, and chapter 45-22 of the North Dakota Century Code, relating to limited liability partnerships; to amend and reenact sections 5-01-01, 5-02-02, subsection 22 of section 10-09.1-01, sections 10-31-01, 10-31-02,

10-31-02.1, 10-31-03, 10-31-03.1, 10-31-04, 10-31-05, 10-31-06, 10-31-07, 10-31-07.2, 10-31-08, 10-31-09, 10-31-10, 10-31-11, 10-31-12, 10-31-13, 10-31-13.1, 10-31-14, and subsection 32 of section 10-32-02 of the North Dakota Century Code, relating to professional associations; to repeal sections 1-01-28, 10-19.1-07, and 10-32-03 of the North Dakota Century Code, relating to the definition of person and the reservation of legislative power; to provide a penalty; and to declare an emergency.

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 49 YEAS, 0 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

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

Engrossed SB 2344 passed, the title was agreed to, and the emergency clause was declared carried.

SECOND READING OF SENATE BILL

SB 2379: A BILL for an Act to create and enact a new section to chapter 49-05 of the North Dakota Century Code, relating to test years a public utility may use in rate filings with the public service commission.

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 49 YEAS, 0 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

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

Engrossed SB 2379 passed and the title was agreed to.

MOTION

SEN. TENNEFOS MOVED that SB 2534 be returned to the Senate floor from the **Industry, Business and Labor Committee** for the purpose of withdrawal, which motion prevailed.

REQUEST

SEN. TENNEFOS REQUESTED the unanimous consent of the Senate to withdraw SB 2534. There being no objection, it was so ordered by the President.

MOTION

SEN. MUTCH MOVED that SB 2520, which is on the Eleventh order, be rereferred to the **Industry, Business and Labor Committee**, which motion prevailed. Pursuant to Sen. Mutch's motion, SB 2520 was rereferred.

SECOND READING OF SENATE BILL

SB 2387: A BILL for an Act to amend and reenact section 65-04-01 of of the

North Dakota Century Code, relating to classification of employments for workers' compensation purposes and reports to the legislative council.

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 49 YEAS, 0 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

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

Engrossed SB 2387 passed and the title was agreed to.

SECOND READING OF SENATE BILL

SB 2397: A BILL for an Act to create and enact a new subsection to section 14-07.1-02 of the North Dakota Century Code, relating to an order for protection; and to amend and reenact subsection 2 of section 14-07.1-01, subsection 6 of section 14-07.1-03, sections 14-07.1-10, 14-07.1-11, and subsection 2 of section 14-07.1-13 of the North Dakota Century Code, relating to adult abuse.

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 49 YEAS, 0 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

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

Engrossed SB 2397 passed and the title was agreed to.

SECOND READING OF SENATE BILL

SB 2462: A BILL for an Act to amend and reenact sections 26.1-36-09.3 and 54-52.1-04.6 of the North Dakota Century Code, relating to insurance coverage for treatment of certain disorders.

MOTION

SEN. GRINDBERG MOVED that Engrossed SB 2462 be amended as follows, which motion prevailed on a verification vote.

Page 1, line 18, remove the overstrike over "~~Benefits for the~~"

Page 1, line 19, remove the overstrike over "~~coverage may be limited to a lifetime maximum of~~", after "eight" insert "ten", and remove the overstrike over "~~thousand dollars per~~"

Page 1, line 20, remove the overstrike over "~~person for surgery, and two thousand~~" and insert immediately thereafter "five hundred" and remove the overstrike over "~~dollars for nonsurgical treatment.~~"

Page 2, line 10, remove the overstrike over "~~Benefits for the coverage may be limited to a lifetime maximum of~~"

Page 2, line 11, after "eight" insert "ten", remove the overstrike over "~~thousand dollars per person for surgery, and two thousand~~" and insert immediately thereafter "five hundred", and remove the overstrike over "~~dollars for~~"

Page 2, remove the overstrike over line 12

Renumber accordingly

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 49 YEAS, 0 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

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

Reengrossed SB 2462 passed and the title was agreed to.

SECOND READING OF SENATE BILL

SB 2039: A BILL for an Act to create and enact a new subsection to section 12-62-02, a new subsection to section 12-63-06, a new subdivision to subsection 1 of section 12-63-12, a new subsection to section 15-29-08, a new subsection to section 15-36-15, a new subsection to section 15-51-17, a new subsection to section 25-03.2-08, a new subdivision to subsection 1 of section 43-05-16, a new subdivision to subsection 1 of section 43-06-15, a new subsection to section 43-12.1-14, a new subsection to section 43-13-22, a new subdivision to subsection 1 of section 43-15-10, a new subsection to section 43-17-31, a new subsection to section 43-20-05, a new subsection to section 43-26-11, a new subsection to section 43-28-18, two new subsections to section 43-32-27, a new subdivision to subsection 1 of section 43-37-13, a new subdivision to subsection 1 of section 43-39-10, a new subdivision to subsection 1 of section 43-40-16, two new subsections to section 43-41-10, a new subdivision to subsection 4 of section 43-42-03, a new subdivision to subsection 1 of section 43-44-15, a new subsection to section 43-45-07.1, two new subsections to section 43-47-07, a new subdivision to subsection 1 of section 43-48-15, a new subsection to section 43-49-12, a new subsection to section 50-11-07, a new subsection to section 50-11.1-09, and four new sections to chapter 50-25.1 of the North Dakota Century Code, relating to a child abuse and neglect awareness program, a child sexual abuse training program, the persons required to attend the program, duties of certain employers, and the denial, suspension, or revocation of certain occupational or professional licenses; and to amend and reenact sections 27-11-22, 50-11-01, 50-11.1-04, and 50-25.1-03 of the North Dakota Century Code, relating to criminal background investigations, to persons required to attend a child sexual abuse training program, and to persons required to report child abuse and neglect.

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 7 YEAS, 42 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

YEAS: DeMers; Langley; Lindaas; Mushik; Robinson; Wogsland; Yockim

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

SB 2039 lost.

SECOND READING OF SENATE BILL

SB 2254: A BILL for an Act to create and enact a new section to chapter 12.1-32 of the North Dakota Century Code, relating to the sentencing of sexual offenders; 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 NOT PASS, the roll was called and there were 19 YEAS, 30 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

YEAS: DeMers; Freborg; Heinrich; Heitkamp; Kelsh; Kinnoin; Langley; Lindaas; Mathern; Mushik; O'Connell; Redlin; Robinson; Scherber; Tallackson; Thane; Tomac; Wogsland; Yockim

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

SB 2254 lost.

THE SENATE RECOGNIZED THE PRESENCE OF:

Former Senator Jay Lindgren.

SECOND READING OF SENATE BILL

SB 2293: A BILL for an Act to create and enact a new section to chapter 1-03 of the North Dakota Century Code, relating to the designation of Gold Star Mothers' Day.

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, 2 ABSENT AND NOT VOTING.

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

ABSENT AND NOT VOTING: Heitkamp; Thane

SB 2293 passed and the title was agreed to.

SECOND READING OF SENATE BILL

SB 2317: A BILL for an Act to amend and reenact sections 54-03-20 and 54-35-10 of the North Dakota Century Code, relating to reimbursement of members of the legislative assembly and members of the legislative council and legislative council committees.

CONFLICT OF INTEREST

SEN. DEMERS REQUESTED that, according to Senate Rule 322, she be excused from voting on SB 2317, because she had a conflict of interest.

MOTION

SEN. G. NELSON MOVED that all of the Senators who felt that they had a conflict of interest on SB 2317 be allowed to vote, which motion prevailed.

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, 3 ABSENT AND NOT VOTING.

YEAS: Bowman; Kinnoin; Mutch; Naaden; Nething; Solberg; Stenehjem, W.; Streibel; Tallackson; Tennefos

NAYS: Andrist; Christmann; DeMers; Goetz; Grindberg; Heinrich; Holmberg; Kelsh; Krauter; Krebsbach; Kringstad; LaFountain; Langley; Lee; Lindaas; Lips; Mathern; Mushik; Nalewaja; Nelson, C.; Nelson, G.; O'Connell; Redlin; Robinson; Sand; Scherber; Schobinger; St. Aubyn; Stenehjem, B.; Tomac; Traynor; Urlacher; Wanzek; Watne; Wogsland; Yockim

ABSENT AND NOT VOTING: Freborg; Heitkamp; Thane

SB 2317 lost.

SECOND READING OF SENATE BILL

SB 2333: A BILL for an Act to amend and reenact subsection 2 of section 15-28-09 of the North Dakota Century Code, relating to filing deadlines for school elections.

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, 2 ABSENT AND NOT VOTING.

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

ABSENT AND NOT VOTING: Heitkamp; Thane

SB 2333 passed and the title was agreed to.

MOTION

SEN. GOETZ MOVED that SB 2481 be returned to the Senate floor from the Agriculture Committee and be rereferred to the Transportation Committee, which motion prevailed. Pursuant to Sen. Goetz's motion, SB 2481 was rereferred.

MOTION

SEN. GOETZ MOVED that SCR 4039 be returned to the Senate floor from the Agriculture Committee and be rereferred to the Education Committee, which motion prevailed. Pursuant to Sen. Goetz's motion, SCR 4039 was rereferred.

MOTION

SEN. GOETZ MOVED that the Senate be on the Fifth and Thirteenth orders of business and at the conclusion of those orders, the Senate stand adjourned until 1:00 p.m., Tuesday, February 7, 1995, which motion prevailed.

REPORT OF STANDING COMMITTEE

SB 2075: Agriculture Committee (Sen. Bowman, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS and BE REREFERRED to the Appropriations Committee (2 YEAS, 1 NAY, 2 ABSENT AND NOT VOTING). SB 2075 was placed on the Sixth order on the calendar.

Page 1, line 1, after "to" insert "create and enact a new section to chapter 23-01 of the North Dakota Century Code, relating to the consolidated laboratories function of the state department of health and consolidated laboratories; to"

Page 1, line 17, remove "and"

Page 1, line 19, after "1947" insert "; and to provide an appropriation"

Page 38, after line 22, insert:

"SECTION 45. A new section to chapter 23-01 of the North Dakota Century Code is created and enacted as follows:

Commercial feed, insecticide, fungicide, rodenticide, fertilizer, and soil conditioner laws - Laboratory function. Notwithstanding any other provision of law, any laboratory test or analysis required under chapter 19-13.1, 19-18, or 19-20.1 must be performed by the state department of health and consolidated laboratories for the commissioner of agriculture at no charge."

Page 38, after line 24, insert:

"SECTION 47. APPROPRIATIONS - TRANSFER. As of the effective date of this Act, \$329,761 appropriated to the state department of health and consolidated laboratories is transferred to the commissioner of agriculture to administer this Act and \$66,100 is transferred to the environmental and rangeland protection fund. Of the \$329,761 transferred to the commissioner of agriculture, \$289,761 is from the environmental and rangeland protection fund and \$40,000 is from federal funds."

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2080: Judiciary Committee (Sen. W. Stenehjem, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS and BE REREFERRED to the Appropriations Committee (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2080 was placed on the Sixth order on the calendar.

Page 15, line 18, remove "permitted by this chapter"

Page 15, line 23, after "includes" insert "bodily injury, mental injury," and replace "any" with "a"

Page 15, line 24, replace "caused by the state or a state employee" with "and injury to a person's rights or reputation"

Page 15, line 25, after "tangible" insert "or intangible"

Page 15, line 26, remove "caused by the state or a state employee"

Page 16, line 4, replace "any present or former officer," with "a state" and replace the second underscored comma with "as defined in section 26.1-21-10.1."

Page 16, remove lines 5 through 8

Page 16, line 29, replace "enacts legislation" with "adopts an appropriation"

Page 17, line 2, replace "legislative assembly and" with "commissioner of insurance who shall include within the commissioner's proposed budget a" and after "request" insert "for"

Page 17, line 6, replace "The" with "Neither the", after "state" insert "nor a state employee", and remove "not"

Page 18, line 7, replace ", except if state" with an underscored period

Page 18, remove lines 8 and 9

Page 19, line 13, remove "A state"

Page 19, line 14, remove "employee may be liable for punitive or exemplary damages."

Page 19, line 27, replace "attorney general" with "commissioner of insurance"

Page 20, line 2, replace "employee" with "employees"

Page 20, line 9, replace "attorney general" with "commissioner of insurance"

Page 20, line 10, after "involved" insert ", the attorney general," and replace "the commissioner of insurance" with "any"

Page 20, line 11, remove "or" and replace the underscored colon with ". The commissioner of insurance, in consultation with the head of the state entity involved and the attorney general, may settle claims covered by the state risk management fund. For all claims, a settlement made under this section is not valid unless it is supported by a claim in writing and is approved by the attorney general as to its form and legality."

Page 20, remove lines 12 through 23

Page 20, replace lines 28 and 29 with:

"32-12.2-05. Arbitration of claims. The commissioner of insurance, in consultation with the head of the state entity involved and the attorney general, may agree to submit a claim covered by the state risk management fund to mediation or binding arbitration. If a claim is submitted to arbitration, the arbitrator must apply the limitations on liability imposed under this chapter in deciding the claim."

Page 21, remove lines 1 through 10

Page 22, after line 26, insert:

"32-12.2-09. Insurance no waiver of immunity. No purchase of insurance or participation in a government self-insurance pool by the state may be construed as a waiver of any immunity to suit."

32-12.2-10. Eleventh Amendment immunity preserved. This chapter does not waive the state's immunity under the Eleventh Amendment to the United States Constitution in any manner, and this chapter may not be construed to abrogate that immunity."

Page 23, line 28, remove ", as determined by the attorney representing the public"

Page 24, line 1, remove "agency,"

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2210: Appropriations Committee (Sen. Nething, Chairman) recommends DO PASS (8 YEAS, 0 NAYS, 6 ABSENT AND NOT VOTING). SB 2210 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2302: Political Subdivisions Committee (Sen. Urlacher, 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

SB 2306: Natural Resources Committee (Sen. Traynor, Chairman) recommends DO NOT PASS (5 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2306 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2334: 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 2334 was placed on the Sixth order on the calendar.

Page 1, line 2, remove "or revocation"

Page 1, line 7, remove "or revocation"

Page 1, line 12, remove "or revoke"

Page 1, line 13, remove "or revoke"

Page 1, line 14, after "by" insert "or on behalf of" and after "state" insert "or any of its licensing authorities or occupational or professional boards,"

Page 1, line 15, after the period insert "Following a decision to suspend an obligor's certificate, permit, or license, the court shall notify the obligor that the decision becomes final thirty days after the notification unless the obligor satisfies the entire outstanding payment due."

Page 1, line 17, remove "or revoke"

Page 1, line 18, after the period insert "A certificate, permit, or license suspended by an order issued under this section may be reissued only by order of the court."

Page 1, line 19, remove "or revoked"

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2335: Human Services Committee (Sen. Thane, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS and BE REREFERRED to the Appropriations Committee (7 YEAS, 0 NAYS, 0 ABSENT

AND NOT VOTING). SB 2335 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact section 50-24.1-02.2 of the North Dakota Century Code, relating to a community spouse asset allowance.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-24.1-02.2 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

50-24.1-02.2. Community spouse resource allowance. In determining eligibility for medical assistance applicants and recipients, the department of human services shall establish a community spouse resource allowance equal to the maximum community spouse resource allowance as provided by 42 U.S.C. 1396r-5(f)(2). This section applies to a community spouse of an institutionalized spouse. For purposes of this section, "institutionalized spouse" includes an individual who is described in 42 U.S.C. 1396a(a)(10)(A)(ii)-(vi)."

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2342: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends **DO PASS** (5 YEAS, 1 NAY, 1 ABSENT AND NOT VOTING). SB 2342 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2354: Judiciary Committee (Sen. W. Stenehjem, Chairman) recommends **DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2354 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2362: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2362 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2400: Appropriations Committee (Sen. Nething, Chairman) recommends **DO NOT PASS** (8 YEAS, 0 NAYS, 6 ABSENT AND NOT VOTING). SB 2400 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2407: Natural Resources Committee (Sen. Traynor, Chairman) recommends **DO NOT PASS** (5 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2407 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2447: Agriculture Committee (Sen. Bowman, Chairman) recommends **DO PASS** (4 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2447 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2448: Agriculture Committee (Sen. Bowman, Chairman) recommends **DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2448 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2450: Natural Resources Committee (Sen. Traynor, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2450 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2451: Natural Resources Committee (Sen. Traynor, Chairman) recommends DO PASS (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2451 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2456: Transportation Committee (Sen. B. Stenehjem, Chairman) recommends DO PASS (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2456 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2465: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends DO NOT PASS (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2465 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2473: Transportation Committee (Sen. B. Stenehjem, Chairman) recommends DO PASS (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2473 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2493: Natural Resources Committee (Sen. Traynor, Chairman) recommends DO PASS (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2493 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SCR 4029: Natural Resources Committee (Sen. Traynor, Chairman) recommends DO PASS (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SCR 4029 was placed on the Eleventh order on the calendar.

FIRST READING OF HOUSE BILLS

HB 1190: A BILL for an Act to create and enact four new sections to chapter 65-02 of the North Dakota Century Code, relating to a workers' compensation fraud unit, immunity from civil liability, nondisclosure of investigative information, and immunity from criminal prosecution; and to amend and reenact sections 65-04-14 and 65-05-33 of the North Dakota Century Code, relating to penalties for misrepresenting payroll or for filing false claims or false statements.

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

HB 1206: A BILL for an Act to create and enact four new sections to chapter 65-05 of the North Dakota Century Code, relating to an employee's first report of injury to an employer.

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

HB 1219: A BILL for an Act to create and enact a new section to chapter 65-04 of the North Dakota Century Code, relating to employer relief for third-party lawsuit recovery; to amend and reenact section 65-05-07.2 of the North Dakota Century Code, relating to requiring a third party to pay the workers compensation bureau for certain claims; and to provide an effective date.

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

HB 1224: A BILL for an Act to amend and reenact section 65-01-11 of the North Dakota Century Code, relating to the denial of workers' compensation benefits due to use of alcohol or controlled substances.

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

HB 1225: A BILL for an Act to amend and reenact subsection 9 of section 65-01-02 of the North Dakota Century Code, relating to the definition of compensable injury for workers' compensation purposes.

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

HB 1227: A BILL for an Act to amend and reenact section 65-05-35 of the North Dakota Century Code, relating to the presumption that a workers' compensation claim is closed.

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

HB 1228: A BILL for an Act to amend and reenact section 65-05-09.3 of the North Dakota Century Code, relating to termination of workers' compensation benefits upon retirement.

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

HB 1252: A BILL for an Act to amend and reenact subsection 9 of section 65-01-02 of the North Dakota Century Code, relating to the definition of compensable injury for workers' compensation purposes.

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

HB 1329: A BILL for an Act to amend and reenact sections 65-04-12, 65-04-13, 65-04-14, 65-04-19, 65-04-23, 65-04-24, 65-04-26.1, 65-04-27, 65-04-27.1, 65-09-01, 65-09-02, 65-09-03, and 65-09-04 of the North Dakota Century Code, relating to penalties for failure to obtain workers' compensation coverage and submit payroll reports, penalties for refusal to permit inspection of books, penalties for filing false payroll reports, calculation of premium due, penalties for default in payments to the workers compensation bureau, actions for collection of delinquent premium, corporate officer liability, payment of claims for employees of employers who are in default, and injunctions against employers; and to provide a penalty.

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

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

William C. Parker, Secretary