

JOURNAL OF THE SENATE

Fifty-seventh Legislative Assembly

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Bismarck, February 21, 2001

The Senate convened at 1:00 p.m., with President Pro Tem Krebsbach presiding.

The prayer was offered by Father Steve Zastoupil, Corpus Christi, Bismarck.

The roll was called and all members were present except Senator Wanzek.

A quorum was declared by the President Pro Tem.

MOTION

SEN. CHRISTMANN MOVED that HB 1053, which is on the Sixth order, be laid over two legislative days, 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 be placed on the Eleventh order, as amended, for immediate second reading and final passage, which motion prevailed.

CONSIDERATION OF AMENDMENTS

SB 2361: SEN. ROBINSON (Appropriations Committee) MOVED that the amendments on SJ page 590 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

SECOND READING OF SENATE BILL

SB 2361: A BILL for an Act to amend and reenact section 14-02.1-02.1 of the North Dakota Century Code, relating to information provided by the state department of health regarding pregnancy, childbirth, and adoption; and to provide an appropriation.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 48 YEAS, 0 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Andrist; Bercier; Bowman; Christenson; Christmann; Cook; Dever; Erbele; Espegard; Every; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kelsh; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Kroepflin; Lee; Lindaas; Lyson; Mathern, D.; Mathern, T.; Mutch; Nelson, C.; Nelson, G.; Nething; Nichols; O'Connell; Polovitz; Robinson; Schobinger; Solberg; Stenehjorn; Tallackson; Thane; Tollefson; Tomac; Traynor; Trenbeath; Urlacher; Wardner; Watne

ABSENT AND NOT VOTING: Wanzek

Reengrossed SB 2361 passed and the title was agreed to.

CONSIDERATION OF AMENDMENTS

SB 2380, as engrossed: SEN. HOLMBERG (Appropriations Committee) MOVED that the amendments on SJ pages 590-591 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

SECOND READING OF SENATE BILL

SB 2380: A BILL for an Act to establish a tobacco prevention advisory committee; to amend and reenact subsection 1 of section 54-27-25 of the North Dakota Century Code, relating to the tobacco settlement trust fund; and to declare an emergency.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 48 YEAS, 0 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Andrist; Bercier; Bowman; Christenson; Christmann; Cook; Dever; Erbele; Espegard; Every; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kelsh; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Kroepflin; Lee; Lindaas; Lyson; Mathern, D.; Mathern, T.;

Mutch; Nelson, C.; Nelson, G.; Nething; Nichols; O'Connell; Polovitz; Robinson; Schobinger; Solberg; Stenehjelm; Tallackson; Thane; Tollefson; Tomac; Traynor; Trenbeath; Urlacher; Wardner; Watne

ABSENT AND NOT VOTING: Wanzek

Reengrossed SB 2380 passed, the title was agreed to, and the emergency clause was declared carried.

CONSIDERATION OF AMENDMENTS

SB 2444: SEN. C. NELSON (Judiciary Committee) MOVED that the amendments on SJ page 481 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

SECOND READING OF SENATE BILL

SB 2444: A BILL for an Act to create and enact section 19-03.1-22.1, a new subsection to section 19-03.1-37, and chapter 19-03.4 of the North Dakota Century Code, relating to volatile chemicals and drug paraphernalia; to amend and reenact subsection 1 of section 15.1-24-05, subsection 7 of section 19-03.1-23, section 19-03.1-23.2, subsection 6 of section 19-03.1-36, and subsection 4 of section 19-03.1-37 of the North Dakota Century Code, relating to drug offenses; to repeal section 12.1-31-06 and chapter 12.1-31.1 of the North Dakota Century Code, relating to volatile chemicals and drug paraphernalia; to provide a penalty; and to declare an emergency.

MOTION

SEN. KRAUTER MOVED that Engrossed SB 2444 be amended as follows:

Page 1, line 4, replace the first "subsection" with "subsection 6 and"

Page 2, line 30, replace "Subsection" with "Subsections 6 and"

Page 2, after line 31, insert:

- "6. It is unlawful for any person to willfully, as defined in section 12.1-02-02, possess a controlled substance unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of the practitioner's professional practice, or except as otherwise authorized by this chapter, but any person who violates section 12-46-24 or 12-47-21 may not be prosecuted under this subsection. Except as provided in this subsection, any person who violates this subsection is guilty of a class C felony. If the person is in or on, or within one thousand feet [300.48 meters] of the real property comprising a public or private elementary or secondary school or a public vocational school, the person is guilty of a class B felony. Any person who violates this subsection regarding possession of one-half ounce [14.175 grams] to one ounce [28.35 grams] of marijuana, is guilty of a class A misdemeanor. Any person, except a person operating a motor vehicle, who violates this subsection regarding possession of less than one-half ounce [14.175 grams] of marijuana is guilty of a class B misdemeanor. Any person who violates this subsection regarding possession of less than one-half ounce [14.175 grams] of marijuana while operating a motor vehicle is guilty of a class A misdemeanor. Any person, other than a person on or in that person's private residential property or that person's invitee, who possesses any tobacco product within one hundred feet [30.05 meters] of the real property comprising a public or private elementary or secondary school or a public vocational school is guilty of a class A misdemeanor. Any person who possesses with intent to sell or distribute any tobacco product within one thousand feet [300.48 meters] of the real property comprising a public or private elementary or secondary school or a public vocational school is guilty of a class A misdemeanor unless that person is licensed, or is an agent of a person licensed, under section 57-36-02 and that licensee has not sold tobacco products in violation of any law, ordinance, compliance check, or regulation within the past year. For purposes of this subsection, "tobacco product" means any form of tobacco, including cigarettes, cigars, snuff, or tobacco in any form in which it may be used for smoking or chewing."

Renumber accordingly

REQUEST

SEN. KRAUTER REQUESTED a recorded roll call vote on the motion to adopt the proposed amendments to Engrossed SB 2444, which request was granted.

ROLL CALL

The question being on the motion to adopt the proposed amendments to Engrossed SB 2444, the roll was called and there were 12 YEAS, 36 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Bercier; Christenson; Heitkamp; Kelsh; Krauter; Lindaas; Mathern, T.; Nelson, C.; Nichols; Robinson; Tallackson; Tomac

NAYS: Andrist; Bowman; Christmann; Cook; Dever; Erbele; Espegard; Every; Fischer; Flakoll; Freborg; Grindberg; Holmberg; Kilzer; Klein; Krebsbach; Kringstad; Kroeplin; Lee; Lyson; Mathern, D.; Mutch; Nelson, G.; Nething; O'Connell; Polovitz; Schobinger; Solberg; Stenehjem; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner; Watne

ABSENT AND NOT VOTING: Wanzek

The proposed amendments to Engrossed SB 2444 failed.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 48 YEAS, 0 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Andrist; Bercier; Bowman; Christenson; Christmann; Cook; Dever; Erbele; Espegard; Every; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kelsh; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Kroeplin; Lee; Lindaas; Lyson; Mathern, D.; Mathern, T.; Mutch; Nelson, C.; Nelson, G.; Nething; Nichols; O'Connell; Polovitz; Robinson; Schobinger; Solberg; Stenehjem; Tallackson; Thane; Tollefson; Tomac; Traynor; Trenbeath; Urlacher; Wardner; Watne

ABSENT AND NOT VOTING: Wanzek

Engrossed SB 2444 passed, the title was agreed to, and the emergency clause was declared carried.

CONSIDERATION OF AMENDMENTS

SB 2004: SEN. ANDRIST (Appropriations Committee) MOVED that the amendments on SJ pages 573-577 be adopted and then be placed on the Eleventh order with **DO PASS.**

REQUEST

SEN. TOMAC REQUESTED that the Senate divide the amendments to SB 2004, which request was granted.

DIVISION A: All of the amendments excluding Section 14.

DIVISION B: Section 14 of the amendments.

REQUEST

SEN. HEITKAMP REQUESTED a recorded roll call vote on Division A of the proposed amendments to SB 2004, which request was granted.

ROLL CALL

The question being on the adoption of Division A of the proposed amendments to SB 2004, the roll was called and there were 48 YEAS, 0 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Andrist; Bercier; Bowman; Christenson; Christmann; Cook; Dever; Erbele; Espegard; Every; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kelsh; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Kroeplin; Lee; Lindaas; Lyson; Mathern, D.; Mathern, T.; Mutch; Nelson, C.; Nelson, G.; Nething; Nichols; O'Connell; Polovitz; Robinson; Schobinger; Solberg; Stenehjem; Tallackson; Thane; Tollefson; Tomac; Traynor; Trenbeath; Urlacher; Wardner; Watne

ABSENT AND NOT VOTING: Wanzek

Division A of the proposed amendments to SB 2004 was adopted.

REQUEST

SEN. HEITKAMP REQUESTED a recorded roll call vote on Division B of the proposed amendments to SB 2004, which request was granted.

ROLL CALL

The question being on the adoption of Division B of the proposed amendments to SB 2004, the roll was called and there were 31 YEAS, 17 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Andrist; Bowman; Christmann; Cook; Dever; Erbele; Espgaard; Fischer; Flakoll; Freborg; Grindberg; Holmberg; Kilzer; Klein; Krebsbach; Kringstad; Lee; Lyson; Mutch; Nelson, G.; Nething; Schobinger; Solberg; Stenehjem; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner; Watne

NAYS: Bercier; Christenson; Every; Heitkamp; Kelsh; Krauter; Kroeplin; Lindaas; Mathern, D.; Mathern, T.; Nelson, C.; Nichols; O'Connell; Polovitz; Robinson; Tallackson; Tomac

ABSENT AND NOT VOTING: Wanzek

Division B of the proposed amendments to SB 2004 was adopted.

The question being on the motion to adopt the amendments to SB 2004, the motion to adopt the amendments to SB 2004 passed on a voice vote.

Engrossed SB 2004 was placed on the Eleventh order for immediate second reading.

SECOND READING OF SENATE BILL

SB 2004: A BILL for an Act to provide an appropriation for defraying the expenses of the state department of health; to create and enact a new section to chapter 23-01 of the North Dakota Century Code, relating to a donated dental services program; to amend and reenact subdivision b of subsection 1 of section 14-02.1-02.1 and section 23-01-05 of the North Dakota Century Code, relating to information regarding fetal development and to the qualifications of the state health officer; to repeal section 19-02.1-25 of the North Dakota Century Code, relating to country of origin labels; and to provide a statement of legislative intent.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 39 YEAS, 8 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

YEAS: Andrist; Bowman; Christenson; Christmann; Cook; Dever; Erbele; Espgaard; Every; Fischer; Flakoll; Freborg; Grindberg; Holmberg; Kelsh; Kilzer; Klein; Krebsbach; Kringstad; Lee; Lindaas; Lyson; Mathern, T.; Nelson, G.; Nething; Nichols; Polovitz; Robinson; Schobinger; Solberg; Stenehjem; Tallackson; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner; Watne

NAYS: Bercier; Heitkamp; Krauter; Kroeplin; Mathern, D.; Nelson, C.; O'Connell; Tomac

ABSENT AND NOT VOTING: Mutch; Wanzek

Engrossed SB 2004 passed and the title was agreed to.

CONSIDERATION OF AMENDMENTS

SB 2011: SEN. TALLACKSON (Appropriations Committee) MOVED that the amendments on SJ pages 579-580 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

SECOND READING OF SENATE BILL

SB 2011: A BILL for an Act to provide an appropriation for defraying the expenses of the highway patrol.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 48 YEAS, 0 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Andrist; Bercier; Bowman; Christenson; Christmann; Cook; Dever; Erbele; Espegard; Every; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kelsh; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Kroepflin; Lee; Lindaas; Lyson; Mathern, D.; Mathern, T.; Mutch; Nelson, C.; Nelson, G.; Nething; Nichols; O'Connell; Polovitz; Robinson; Schobinger; Solberg; Stenehjem; Tallackson; Thane; Tollefson; Tomac; Traynor; Trenbeath; Urlacher; Wardner; Watne

ABSENT AND NOT VOTING: Wanzek

Engrossed SB 2011 passed and the title was agreed to.

CONSIDERATION OF AMENDMENTS

SB 2007: SEN. ANDRIST (Appropriations Committee) MOVED that the amendments on SJ pages 577-579 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

SECOND READING OF SENATE BILL

SB 2007: A BILL for an Act to provide an appropriation for defraying the expenses of the veterans' home and department of veterans' affairs; and to provide for a performance audit of the veterans' home.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 48 YEAS, 0 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Andrist; Bercier; Bowman; Christenson; Christmann; Cook; Dever; Erbele; Espegard; Every; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kelsh; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Kroepflin; Lee; Lindaas; Lyson; Mathern, D.; Mathern, T.; Mutch; Nelson, C.; Nelson, G.; Nething; Nichols; O'Connell; Polovitz; Robinson; Schobinger; Solberg; Stenehjem; Tallackson; Thane; Tollefson; Tomac; Traynor; Trenbeath; Urlacher; Wardner; Watne

ABSENT AND NOT VOTING: Wanzek

Engrossed SB 2007 passed and the title was agreed to.

CONSIDERATION OF AMENDMENTS

SB 2012: SEN. KRINGSTAD (Appropriations Committee) MOVED that the amendments on SJ page 580 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

SECOND READING OF SENATE BILL

SB 2012: A BILL for an Act to provide an appropriation for defraying the expenses of the various divisions under the supervision of the director of the department of transportation; and to provide for a legislative council study.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 48 YEAS, 0 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Andrist; Bercier; Bowman; Christenson; Christmann; Cook; Dever; Erbele; Espegard; Every; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kelsh; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Kroepflin; Lee; Lindaas; Lyson; Mathern, D.; Mathern, T.; Mutch; Nelson, C.; Nelson, G.; Nething; Nichols; O'Connell; Polovitz; Robinson; Schobinger; Solberg; Stenehjem; Tallackson; Thane; Tollefson; Tomac; Traynor; Trenbeath; Urlacher; Wardner; Watne

ABSENT AND NOT VOTING: Wanzek

Engrossed SB 2012 passed and the title was agreed to.

CONSIDERATION OF AMENDMENTS

SB 2195: SEN. BOWMAN (Appropriations Committee) MOVED that the amendments on SJ pages 588-589 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

SECOND READING OF SENATE BILL

SB 2195: A BILL for an Act to provide legislative intent relating to the appropriation for the tourism division of the department of commerce and funding for a grant to the North Dakota cowboy hall of fame.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 48 YEAS, 0 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Andrist; Bercier; Bowman; Christenson; Christmann; Cook; Dever; Erbele; Espegard; Every; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kelsh; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Kroepelin; Lee; Lindaas; Lyson; Mathern, D.; Mathern, T.; Mutch; Nelson, C.; Nelson, G.; Nething; Nichols; O'Connell; Polovitz; Robinson; Schobinger; Solberg; Stenehjem; Tallackson; Thane; Tollefson; Tomac; Traynor; Trenbeath; Urlacher; Wardner; Watne

ABSENT AND NOT VOTING: Wanzek

Engrossed SB 2195 passed and the title was agreed to.

CONSIDERATION OF AMENDMENTS

SB 2285: SEN. FISCHER (Appropriations Committee) MOVED that the amendments on SJ page 589 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

SECOND READING OF SENATE BILL

SB 2285: A BILL for an Act to repeal section 12 of chapter 594 of the 1993 Session Laws, as amended by section 1 of chapter 589 of the 1995 Session Laws, relating to the effective date of the assumption of the section 404 program of the Clean Water Act by the state; and to provide an appropriation.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 42 YEAS, 6 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Andrist; Bercier; Bowman; Christenson; Christmann; Cook; Dever; Erbele; Espegard; Every; Fischer; Flakoll; Freborg; Grindberg; Holmberg; Kelsh; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Kroepelin; Lee; Lyson; Mathern, D.; Mathern, T.; Mutch; Nelson, C.; Nelson, G.; Nething; Polovitz; Schobinger; Solberg; Stenehjem; Tallackson; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner; Watne

NAYS: Heitkamp; Lindaas; Nichols; O'Connell; Robinson; Tomac

ABSENT AND NOT VOTING: Wanzek

Engrossed SB 2285 passed and the title was agreed to.

CONSIDERATION OF AMENDMENTS

SB 2373: SEN. DEVER (Judiciary Committee) MOVED that the amendments on SJ page 590 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

SECOND READING OF SENATE BILL

SB 2373: A BILL for an Act to amend and reenact subdivision a of subsection 1 of section 14-09-09.7 of the North Dakota Century Code, relating to gross income under child support guidelines of the department of human services.

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

YEAS: Andrist; Bercier; Bowman; Christenson; Christmann; Cook; Dever; Erbele; Espegard; Every; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kelsh; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Kroeplin; Lee; Lindaas; Lyson; Mathern, D.; Mathern, T.; Mutch; Nelson, C.; Nelson, G.; Nething; Nichols; O'Connell; Polovitz; Robinson; Schobinger; Solberg; Stenehjem; Tallackson; Thane; Tollefson; Tomac; Traynor; Trenbeath; Urlacher; Wardner

NAYS: Watne

ABSENT AND NOT VOTING: Wanzek

Engrossed SB 2373 passed and the title was agreed to.

MOTION

SEN. CHRISTMANN MOVED that the Senate stand in recess until 3:45 p.m., which motion prevailed.

THE SENATE RECONVENED pursuant to recess taken, with President Pro Tem Krebsbach presiding.

CONSIDERATION OF AMENDMENTS

SB 2384: SEN. WATNE (Judiciary Committee) MOVED that the amendments on SJ pages 591-592 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

SECOND READING OF SENATE BILL

SB 2384: A BILL for an Act to amend and reenact section 50-25.1-05.1 of the North Dakota Century Code, relating to the determination of when services are required for the protection and treatment of an abused or neglected child.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 48 YEAS, 0 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Andrist; Bercier; Bowman; Christenson; Christmann; Cook; Dever; Erbele; Espegard; Every; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kelsh; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Kroeplin; Lee; Lindaas; Lyson; Mathern, D.; Mathern, T.; Mutch; Nelson, C.; Nelson, G.; Nething; Nichols; O'Connell; Polovitz; Robinson; Schobinger; Solberg; Stenehjem; Tallackson; Thane; Tollefson; Tomac; Traynor; Trenbeath; Urlacher; Wardner; Watne

ABSENT AND NOT VOTING: Wanzek

Engrossed SB 2384 passed and the title was agreed to.

CONSIDERATION OF AMENDMENTS

SB 2446: SEN. TRENBEATH (Judiciary Committee) MOVED that the amendments on SJ page 593 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

SECOND READING OF SENATE BILL

SB 2446: A BILL for an Act to create and enact a new subdivision to subsection 2 of section 28-32-01 of the North Dakota Century Code, relating to exclusions from the definition of administrative agency; and to amend and reenact section 12.1-32-15 of the North Dakota Century Code, relating to the registration of sexual offenders and offenders against children.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 48 YEAS, 0 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Andrist; Bercier; Bowman; Christenson; Christmann; Cook; Dever; Erbele; Espegard; Every; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kelsh; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Kroeplin; Lee; Lindaas; Lyson; Mathern, D.; Mathern, T.; Mutch; Nelson, C.; Nelson, G.; Nething; Nichols; O'Connell; Polovitz; Robinson;

Schobinger; Solberg; Stenehjerm; Tallackson; Thane; Tollefson; Tomac; Traynor; Trenbeath; Urlacher; Wardner; Watne

ABSENT AND NOT VOTING: Wanzek

Engrossed SB 2446 passed and the title was agreed to.

CONSIDERATION OF AMENDMENTS

SB 2410: SEN. D. MATHERN (Industry, Business and Labor Committee) MOVED that the amendments on SJ pages 592-593 be adopted and then be placed on the Eleventh order with **DO NOT PASS**, which motion prevailed.

SECOND READING OF SENATE BILL

SB 2410: A BILL for an Act to amend and reenact sections 49-02-01, 49-02-01.1, and 49-02-03 of the North Dakota Century Code, relating to jurisdiction of the public service commission over certain rural electric cooperatives.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 17 YEAS, 31 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Bowman; Cook; Dever; Fischer; Flakoll; Kilzer; Krebsbach; Kringstad; Lee; Mutch; Nelson, G.; Nething; Schobinger; Stenehjerm; Tollefson; Wardner; Watne

NAYS: Andrist; Bercier; Christenson; Christmann; Erbele; Espegard; Every; Freborg; Grindberg; Heitkamp; Holmberg; Kelsh; Klein; Krauter; Kroeplin; Lindaas; Lyson; Mathern, D.; Mathern, T.; Nelson, C.; Nichols; O'Connell; Polovitz; Robinson; Solberg; Tallackson; Thane; Tomac; Traynor; Trenbeath; Urlacher

ABSENT AND NOT VOTING: Wanzek

Engrossed SB 2410 lost.

CONSIDERATION OF AMENDMENTS

SB 2451: SEN. TRENBEATH (Judiciary Committee) MOVED that the amendments on SJ pages 593-594 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

SECOND READING OF SENATE BILL

SB 2451: A BILL for an Act to amend and reenact subsection 5 of section 23-07.5-02 of the North Dakota Century Code, relating to access to a dead person's medical records.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 48 YEAS, 0 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Andrist; Bercier; Bowman; Christenson; Christmann; Cook; Dever; Erbele; Espegard; Every; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kelsh; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Kroeplin; Lee; Lindaas; Lyson; Mathern, D.; Mathern, T.; Mutch; Nelson, C.; Nelson, G.; Nething; Nichols; O'Connell; Polovitz; Robinson; Schobinger; Solberg; Stenehjerm; Tallackson; Thane; Tollefson; Tomac; Traynor; Trenbeath; Urlacher; Wardner; Watne

ABSENT AND NOT VOTING: Wanzek

Engrossed SB 2451 passed and the title was agreed to.

CONSIDERATION OF AMENDMENTS

SB 2455: SEN. WARDNER (Finance and Taxation Committee) MOVED that the amendments on SJ page 594 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

SECOND READING OF SENATE BILL

SB 2455: A BILL for an Act to adopt a Simplified Sales and Use Tax Administration Act.

MOTION

SEN. CHRISTMANN MOVED that Engrossed SB 2455 be amended as follows, which motion prevailed on a voice vote.

Page 1, line 19, replace "simplification requirements as" with "provisions"

Page 1, line 21, remove ", consisting of the tax commissioner or designee and up"

Page 1, line 22, remove "to three members, at least two of whom must be members"

Page 2, line 20, remove "tax commissioner may not enter into the"

Page 2, line 21, replace "unless the agreement requires each state to abide by" with "must include provisions relating to a simplified state rate; uniform standards for sourcing of transactions, exempt sales, and returns and remittances; central registration for sellers; monetary allowances for certified service providers and sellers implementing new technological models; consumer privacy; and state administration of local sales and use taxes."

Page 2, remove lines 22 through 29

Page 3, remove lines 1 through 31

Page 4, remove lines 1 through 4

Re-number accordingly

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 48 YEAS, 0 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Andrist; Bercier; Bowman; Christenson; Christmann; Cook; Dever; Erbele; Espegard; Every; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kelsh; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Kroepflin; Lee; Lindaas; Lyson; Mathern, D.; Mathern, T.; Mutch; Nelson, C.; Nelson, G.; Nething; Nichols; O'Connell; Polovitz; Robinson; Schobinger; Solberg; Stenehjelm; Tallackson; Thane; Tollefson; Tomac; Traynor; Trenbeath; Urlacher; Wardner; Watne

ABSENT AND NOT VOTING: Wanzek

Reengrossed SB 2455 passed and the title was agreed to.

CONSIDERATION OF AMENDMENTS

SB 2019: SEN. GRINDBERG (Appropriations Committee) MOVED that the amendments on SJ pages 580-588 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

SECOND READING OF SENATE BILL

SB 2019: A BILL for an Act to provide an appropriation for defraying the expenses of the department of commerce; to provide for transfers of funds; to provide statements of legislative intent; to direct the state tax commissioner to audit the ethanol incentive program; to provide for legislative council studies; to create and enact a new section to chapter 54-34.4 of the North Dakota Century Code, relating to tourism copyrights and trademarks; to amend and reenact sections 4-14.1-07, 54-34.4-04, and 57-43.1-03.1 of the North Dakota Century Code, relating to ethanol plant production incentives, the motion picture development office advisory board, and tax refunds for fuel used for agricultural purposes; to provide an effective date; and to declare an emergency.

MOTION

SEN. TRENBEATH MOVED that Engrossed SB 2019 be amended as follows, which motion failed on a voice vote.

Page 8, line 11, overstrike "and which has a"

Page 8, overstrike line 12

Page 8, line 13, replace "eight" with "six" and overstrike "fifty" and insert immediately thereafter "twenty-five"

Page 8, line 14, overstrike "An ethanol plant that was"

Page 8, line 15, overstrike "in operation before July 1, 1995, and which"

Page 8, line 17, remove "produced fifteen million [56781000] liters or"

Page 8, remove lines 18 through 20

Page 8, line 21, remove "year" and overstrike the period

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

Dept. 605 - Department of Commerce - Senate Action

This amendment changes the allocation of ethanol incentive payments to provide that any ethanol plant in operation before July 1, 1995, may receive production incentives of up to \$625,000 per year. As recommended in the executive budget, an ethanol plant with production capacity of fewer than 15 million gallons would have been eligible for incentives of up to \$850,000 per year and an ethanol plant producing 15 million gallons or more in the previous fiscal year and any new plant would have been eligible for incentives of up to \$400,000 per year.

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

YEAS: Andrist; Bercier; Bowman; Christenson; Christmann; Cook; Dever; Erbele; Espegard; Every; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kelsh; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Kroeplin; Lee; Lindaas; Lyson; Mathern, D.; Mathern, T.; Nelson, C.; Nelson, G.; Nething; Nichols; O'Connell; Polovitz; Robinson; Schobinger; Solberg; Tallackson; Thane; Tollefson; Tomac; Traynor; Trenbeath; Urlacher; Wardner; Watne

NAYS: Mutch; Stenehjem

ABSENT AND NOT VOTING: Wanzek

Engrossed SB 2019 passed, the title was agreed to, and the emergency clause was declared carried.

SECOND READING OF SENATE BILL

SB 2032: A BILL for an Act to create and enact a new chapter to title 54 of the North Dakota Century Code, relating to creation of a department of commerce; to amend and reenact sections 4-14.1-03, 4-14.1-04, and 6-12-02, subsection 6 of section 10-30-04, subsection 4 of section 10-30.5-02, section 10-30.5-05, subsection 6 of section 10-30.6-04, subsection 3 of section 20.1-02-17.1, sections 20.1-02-18.1, 21-11-02, 21-11-03, 21-11-04, 21-11-05, 21-11-06, and 24-03-21, subsection 4 of section 26.1-50-01, sections 26.1-50-02, 28-32-01, 40-57.1-04, and 49-10.1-17, subsection 4 of section 50-06-01.8, section 52-01-03, subsection 5 of section 52-02.1-01, section 54-01.1-08, subsection 1 of section 54-06-04, section 54-21.2-03, subsection 1 of section 54-21.3-03, sections 54-21.3-04.1, 54-34-12, 54-34-15, 54-34.3-01, 54-34.3-02, 54-34.3-03, 54-34.3-04, 54-34.3-05, 54-34.3-06, 54-34.3-08, 54-34.3-10, 54-34.3-11, 54-34.4-01, 54-34.4-02, and 54-34.4-04, subsection 15 of section 54-44.3-20, sections 54-44.5-01, 54-44.5-02, 54-44.5-03, 54-44.5-05, 54-53-02, 55-01-01, and 55-06-01, subsection 1 of section 57-38.5-01, section 57-38.5-08, and subsection 6 of section 57-39.2-28 of the North Dakota Century Code, relating to merging the division of community services, department of economic development and finance, and tourism department into a department of commerce; to repeal section 54-34.3-09 of the North Dakota Century Code, relating to the department of economic development and finance; to provide an appropriation; and to provide an effective date.

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

YEAS: Andrist; Bercier; Bowman; Christenson; Christmann; Cook; Dever; Erbele; Espegard; Every; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kelsh; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Kroepelin; Lee; Lindaas; Lyson; Mathern, D.; Mathern, T.; Mutch; Nelson, C.; Nelson, G.; Nething; Nichols; O'Connell; Polovitz; Robinson; Schobinger; Solberg; Tallackson; Thane; Tollefson; Tomac; Traynor; Trenbeath; Urlacher; Wardner; Watne

NAYS: Stenehjem

ABSENT AND NOT VOTING: Wanzek

Engrossed SB 2032 passed and the title was agreed to.

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 2216, SB 2424.

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 2053, SB 2217, SB 2220, SB 2267, SB 2288, SB 2308, SB 2315, SB 2317, SB 2336, SB 2358, SB 2376, SB 2379, SB 2390, SB 2397, SB 2407, SB 2413, SB 2414, SB 2420, SB 2449, SCR 4009, SCR 4016, SCR 4020, SCR 4029.

DELIVERY OF ENROLLED BILLS AND RESOLUTIONS

The following resolutions were delivered to the Secretary of State for filing on February 21, 2001: SCR 4002, SCR 4039.

MESSAGE TO THE SENATE FROM THE HOUSE (MARK L. JOHNSON, CHIEF CLERK)

MR. PRESIDENT: The House has passed, the emergency clause carried, and your favorable consideration is requested on: HB 1468.

MESSAGE TO THE SENATE FROM THE HOUSE (MARK L. JOHNSON, CHIEF CLERK)

MR. PRESIDENT: The House has passed and your favorable consideration is requested on: HB 1145, HB 1173, HB 1210, HB 1220, HB 1318, HB 1327, HB 1338, HB 1386, HB 1391, HB 1423, HB 1431, HB 1455, HB 1456, HB 1459, HB 1469, HB 1474, HCR 3002, HCR 3016, HCR 3019, HCR 3026, HCR 3032, HCR 3033, HCR 3041, HCR 3044, HCR 3045.

MESSAGE TO THE SENATE FROM THE HOUSE (MARK L. JOHNSON, CHIEF CLERK)

MR. PRESIDENT: The House has adopted the conference committee report on HCR 3003.

MOTION

SEN. CHRISTMANN MOVED that the absent member be excused, which motion prevailed.

MOTION

SEN. CHRISTMANN MOVED that the Senate be on the Fourth, Fifth, Seventh, and Thirteenth orders of business and at the conclusion of those orders, the Senate stand adjourned until 8:30 a.m., Thursday, February 22, 2001, which motion prevailed.

REPORT OF STANDING COMMITTEE

SB 2371: Human Services Committee (Sen. Lee, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2371 was placed on the Sixth order on the calendar.

Page 1, line 1, after "reenact" insert "subsection 12 of section 43-11-01," and after "43-11-16" insert a comma

Page 1, line 2, after "to" insert "skin care,"

Page 1, line 3, after "schools" insert a comma

Page 1, after line 4, insert:

"SECTION 1. AMENDMENT. Subsection 12 of section 43-11-01 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

12. "Skin care" means the use of cosmetic preparations, antiseptics, tonics, lotions, creams, or otherwise, massaging, cleansing, stimulating, manipulating, beautifying, or similar work on the scalp, face, neck, arms, hands, bust, or upper part of the body of any person. The term does not include invasive care including:
- a. The use of lasers or high-energy applications, including intense light or microwaves, of any type;
 - b. Dermabrasion of any type;
 - c. Dermaplaning or scraping with sharp instruments; and
 - d. Chemical peels utilizing:
 - (1) Phenol, resorcinol, salicylic acid, trichloroacetic acid, or glycolic acid, except glycolic acid that is buffered and that has a concentration not exceeding twenty percent with a ph greater than 3.5; or
 - (2) A combination or mixture of commercially available skin removal products, except as specified by the manufacturer's instructions."

Renumber accordingly

REPORT OF STANDING COMMITTEE

SCR 4026: Agriculture Committee (Sen. Wanzek, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SCR 4026 was placed on the Sixth order on the calendar.

Page 1, line 1, replace "address the flaws in the current freedom to farm" with "carefully examine United States agricultural policy with a view to addressing trade and export enhancement issues, adequate loan rates for all commodities, and any other issues or provisions that would restore income protection and prosperity for this country's farmers"

Page 1, remove lines 2 through 4

Page 1, line 5, remove "loan rate formulas of the current freedom to farm legislation"

Page 1, after line 7, insert:

"WHEREAS, the prices received by farmers for their commodities are often lower than the actual cost of production; and"

Page 1, replace lines 17 and 18 with:

"WHEREAS, the European Union assists its farmers through high-support prices and generous direct payments, which result in prosperous rural areas and a vibrant agricultural economy; and

WHEREAS, this country's agricultural policy frequently fails to provide adequate protection from market downturns;"

Page 1, replace lines 22 through 24 with "carefully examine United States agricultural policy with a view to addressing trade and export enhancement issues, adequate loan rates for all commodities, and any other issues or provisions that would restore income protection and prosperity for this country's farmers"

Page 2, remove line 1

Page 2, line 2, remove "farm legislation"

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1038: Human Services Committee (Sen. Lee, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS,

0 ABSENT AND NOT VOTING). HB 1038 was placed on the Sixth order on the calendar.

Page 2, line 27, overstrike "upon"

Page 2, line 28, overstrike "payment in advance of" and insert immediately thereafter "if the individuals pay"

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1068: Education Committee (Sen. Freborg, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1068 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1110: Human Services Committee (Sen. Lee, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1110 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1117, as engrossed: Human Services Committee (Sen. Lee, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1117 was placed on the Sixth order on the calendar.

Page 1, line 3, remove "and" and after "date" insert "; and to declare an emergency"

Page 2, after line 22, insert:

"SECTION 4. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1143, as engrossed: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1143 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1176: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1176 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1183: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1183 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1194, as engrossed: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1194 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1251: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1251 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1351: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1351 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1365: Human Services Committee (Sen. Lee, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1365 was placed on the Fourteenth order on the calendar.

REPORT OF CONFERENCE COMMITTEE

HCR 3003: Your conference committee (Sens. Dever, Wardner, T. Mathern and Reps. M. Klein, Meier, Hunskor) recommends that the **SENATE RECEDE** from the Senate amendments on HJ page 310 and place HCR 3003 on the Seventh order.

HCR 3003 was placed on the Seventh order of business on the calendar.

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

WILLIAM R. HORTON, Secretary