

JOURNAL OF THE SENATE

Fifty-ninth Legislative Assembly

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Bismarck, February 1, 2005

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

The prayer was offered by Pastor Kris Nyman, Prince of Peace Lutheran Church, Beulah.

The roll was called and all members were present.

A quorum was declared by the President.

MOTION

SEN. KLEIN MOVED that a committee of two be appointed to escort Thomas P. Cadmus, National Commander of the American Legion to the rostrum, which motion prevailed. The President appointed Sens. Thane and Bercier.

REMARKS OF COMMANDER THOMAS P. CADMUS

President Dalrymple, President Pro Tem Grindberg, Majority Leader Stenehjem, Minority Leader O'Connell, distinguished guests, ladies and gentlemen. As I begin, let me take a moment to introduce members of the American Legion family who are with me today. The Commander of the North Dakota American Legion, Willis Pritchard. The American Legion Service Officer of the North Dakota American Legion, Jim Demero. The National Executive Committeeman for the American Legion of North Dakota, Curtis Twete.

I am honored to stand before you today. On behalf of the 23,000 Legionnaires here in North Dakota and the 2.7 million Legionnaires around the world, I want to thank each of you. The American Legion and the people of North Dakota have enjoyed a special camaraderie in working together to benefit communities around the state - particularly those programs that benefit North Dakota's youth. I don't know how many of you know it, but it was the American Legion that first offered the governor's job to John Hoeven. No, not state governor. Governor of American Legion Boy's State when he was a young high school student. Apparently he liked the opportunity.

Ever since, Governor Hoeven has been a strong supporter of the many programs of the American Legion and veterans of North Dakota. We are grateful to him for recording a public service announcement promoting the American Legion Boy's State program to today's students across the state.

However, I am here today to personally thank each of you for your work in supporting veterans throughout the state. Caring for those who have gone in harm's way on our own behalf is the least we can do. Terrorism remains alive and well. Its tentacles have reached out around the world. Bin Laden is still on our most wanted list. His people remain committed to kill as many of us as they can. Thank God there are brave young Americans stepping up to the plate, donning a military uniform, and willing to put all on the line to preserve our way of life, wherever necessary.

And sadly, almost daily, we learn that too many make the ultimate sacrifice for their country. For us. For freedom. For America. We must never forget them. We shall never forget them. But perhaps our most pressing responsibility is to make sure our warriors of today receive the benefits they earned and so richly deserve.

Recently, I visited Walter Reed Army Medical Center in Washington. I talked with young soldiers who had lost limbs in combat in Iraq. I was awestruck as each of them were proud to serve and wished only to return to their battle buddies in Iraq and Afghanistan. Sadly, many will be unable to continue their military careers. They will be discharged to return home. They will look to the Department of Veterans Affairs health care system to take up where the Department of Defense left off. The problem is, VA may not have the funding or resources to welcome them into the system. The current appropriations process is broken and not adequately funding VA medical care.

The American Legion and eight other veterans' organizations believe the answer lies in changing VA health care funding from discretionary to mandatory. We intend to devote all our efforts into working with the 109th Congress to bring this objective to fruition. Guaranteed full

funding for the VA health care system is not about politics - it is a realization that taking care of America's sick and disabled veterans is a continuing cost of national defense.

I urge you to continue to ensure the North Dakota Department of Veterans Affairs will have the funding it needs to be there for those who have served in our armed forces. Since Company A, First Regiment, of the North Dakota National Guard was organized in Bismarck, Dakota Territory, in 1883, North Dakotans have served with honor and distinction here at home and in each of our nation's armed conflicts. I am told that today, over half of North Dakota's National Guard have been activated and are continuing that legacy with courage and commitment. All of them are truly America's heroes. They are making North Dakota proud. They are making their fellow veterans of the American Legion very proud. And all of you are great Americans for your unwavering support of them and their families.

I understand you are considering two bills for North Dakota National Guard veterans of military service in Iraq and Afghanistan. When young soldiers return home, they can really use two things: money and education. In passing bills to authorize a cash bonus as well as a tuition offset for college, you are giving them a terrific tribute and a very tangible expression of appreciation for their service that they will never forget.

The American Legion applauds you for this action. These are important benefits that will be appreciated by the troops and will enable all North Dakotans to show their thanks to these outstanding citizen soldiers. Your support for all the veterans of North Dakota, of years past and present, has been a hallmark of this body. You have staunchly provided for North Dakota's veterans' cemeteries, a last tribute to their commitment to service. It is sincerely appreciated by those left behind to honor their memories.

Lastly, as you know, SJR 4, the flag protection amendment, was regrettably never brought to the floor of the United States Senate in the closing hours of the 108th Congress. I just wanted to let you know the American Legion will be back with the 109th Congress to finally get the measure passed into law. Why? Because it's the right thing to do. North Dakota was one of the first states to pass a "Memorializing Resolution" supporting an amendment to the U.S. Constitution to restore to Congress the right to protect the U.S. Flag from physical acts of desecration.

I am aware that you are ready to act once again when the U.S. House and U.S. Senate pass it in the 109th Congress and send it here for ratification. It is my belief that once the proposal finally gets to the states, it will become the quickest amendment ever ratified, and rightfully so.

And finally, if any of you are wartime veterans, I just happen to have American Legion application forms in my pocket. We'd love to have you join us. I thank you for all that you do for North Dakota, its veterans and their families. May God bless you as you continue the work of the people during this 59th legislative assembly.

MOTION

SEN. KLEIN MOVED that the remarks of Commander Cadmus be printed in the Journal, which motion prevailed.

CONSIDERATION OF AMENDMENTS

SB 2178: SEN. WARDNER (Finance and Taxation Committee) MOVED that the amendments on SJ pages 220-221 be adopted and then be **REREFERRED** to the **Appropriations Committee** with **DO PASS**, which motion prevailed.

CONSIDERATION OF AMENDMENTS

SB 2150: SEN. HEITKAMP (Industry, Business and Labor Committee) MOVED that the amendments on SJ page 220 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

CONSIDERATION OF AMENDMENTS

SB 2193: SEN. TOLLEFSON (Finance and Taxation Committee) MOVED that the amendments on SJ page 221 be adopted and then be placed on the Eleventh order with **DO NOT PASS**, which motion prevailed.

CONSIDERATION OF AMENDMENTS

SB 2239: SEN. SYVERSON (Judiciary Committee) MOVED that the amendments on SJ page 221 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

CONSIDERATION OF AMENDMENTS

SB 2280: SEN. SEYMOUR (Agriculture Committee) MOVED that the amendments on SJ pages 222-224 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

CONSIDERATION OF AMENDMENTS

SB 2309: SEN. HEITKAMP (Industry, Business and Labor Committee) MOVED that the amendments on SJ pages 224-225 be adopted and then be placed on the Eleventh order with **DO NOT PASS**, which motion prevailed.

CONSIDERATION OF AMENDMENTS

SB 2322: SEN. FLAKOLL (Agriculture Committee) MOVED that the amendments on SJ page 225 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

CONSIDERATION OF AMENDMENTS

SB 2113: SEN. LYSON (Natural Resources Committee) MOVED that the amendments on SJ page 204 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

MOTION

SEN. STENEHJEM MOVED that the rules be suspended and that SB 2113 be placed on the Eleventh order, as amended, for immediate second reading and final passage, which motion prevailed.

SECOND READING OF SENATE BILL

SB 2113: A BILL for an Act to provide for a legislative council study of hunting and fishing privileges for nonresidents and nonresidents who are former residents.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 47 YEAS, 0 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

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

Engrossed SB 2113 passed and the title was agreed to.

SECOND READING OF SENATE BILL

SB 2101: A BILL for an Act to create and enact a new subsection to section 39-01-15, a new subsection to section 39-04-05, and a new subsection to section 39-04-06 of the North Dakota Century Code, relating to mobility impaired parking permits and grounds for refusing or suspending a vehicle registration; and to amend and reenact subdivision l of subsection 2 of section 39-04-18, subsection 1 of section 39-29-01, and subsection 1 of section 57-40.3-01 of the North Dakota Century Code, relating to registration of house mover vehicles and the definition of an all-terrain vehicle.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 47 YEAS, 0 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

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

Engrossed SB 2101 passed and the title was agreed to.

MOTION

SEN. STENEHJEM MOVED that Engrossed SB 2154, which is on the Eleventh order, be laid over one legislative day, which motion prevailed.

MOTION

SEN. STENEHJEM MOVED that SB 2099, which is on the Eleventh order, be rereferred to the **Transportation Committee**, which motion prevailed. Pursuant to Sen. Stenehjem's motion, SB 2099 was rereferred.

SECOND READING OF SENATE BILL

SB 2202: A BILL for an Act to create and enact a new section to chapter 44-04 of the North Dakota Century Code, relating to exempting from the open records law records concerning individual recipients of economic assistance administered under the division of community services or a community action agency.

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

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

NAYS: Mutch

Engrossed SB 2202 passed and the title was agreed to.

SECOND READING OF SENATE BILL

SB 2275: A BILL for an Act to amend and reenact subsection 3 of section 23-35-05 and subsection 1 of section 23-35-07 of the North Dakota Century Code, relating to property tax levy limitations of merged health districts; 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, 0 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

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

Engrossed SB 2275 passed and the title was agreed to.

SECOND READING OF SENATE BILL

SB 2294: A BILL for an Act to create and enact a new subsection to section 20.1-03-12 of the North Dakota Century Code, relating to license fees for nonresident wholesale bait vendor licenses; and to amend and reenact subsections 25 and 45 of section 20.1-03-12 and section 20.1-06-14 of the North Dakota Century Code, relating to the regulation and licensing of wholesale bait vendors.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 47 YEAS, 0 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

YEAS: Andrist; Bercier; Bowman; Brown; Christmann; Cook; Dever; Erbele; Espgaard; Every; Fairfield; Fischer; Flakoll; Freborg; Grindberg; Hacker; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Mutch; Nelson; Nething; O'Connell; Robinson; Schobinger; Seymour; Stenehjem; Syverson;

Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Triplett; Urlacher; Wardner; Warner

Engrossed SB 2294 passed and the title was agreed to.

SECOND READING OF SENATE BILL

SB 2326: A BILL for an Act to amend and reenact sections 4-10-01, 4-10-06.1, and 4-10-06.3 of the North Dakota Century Code, relating to seed potato certification requirements; 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 47 YEAS, 0 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

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

Engrossed SB 2326 passed, the title was agreed to, and the emergency clause was declared carried.

SECOND READING OF SENATE BILL

SB 2024: A BILL for an Act to amend and reenact sections 11-18-05 and 11-18-22 of the North Dakota Century Code, relating to the expiration of the document preservation fund.

ROLL CALL

The question being on the final passage of the bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 47 YEAS, 0 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

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

SB 2024 passed and the title was agreed to.

SECOND READING OF SENATE BILL

SB 2161: A BILL for an Act to repeal section 47-10.1-03 of the North Dakota Century Code, relating to the prohibition of recording instruments transferring title to Agricultural land to an alien or certain business entities.

ROLL CALL

The question being on the final passage of the bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 47 YEAS, 0 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

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

SB 2161 passed and the title was agreed to.

SECOND READING OF SENATE BILL

SB 2185: A BILL for an Act to amend and reenact section 50-24.1-02.7 of the North Dakota Century Code, relating to buy-in of medical assistance for individuals with disabilities.

ROLL CALL

The question being on the final passage of the bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 47 YEAS, 0 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

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

SB 2185 passed and the title was agreed to.

SECOND READING OF SENATE BILL

SB 2198: A BILL for an Act to amend and reenact sections 37-07.1-02, 37-07.1-03, 37-07.1-05, 37-07.1-06.2, 37-07.2-01, and 37-07.2-03 of the North Dakota Century Code, relating to tuition waivers and grants for national guard members.

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 21 YEAS, 26 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

YEAS: Bercier; Christmann; Dever; Espegard; Every; Fairfield; Heitkamp; Krauter; Lindaas; Lyson; Mathern; Nelson; O'Connell; Robinson; Seymour; Tallackson; Taylor; Thane; Triplett; Urlacher; Warner

NAYS: Andrist; Bowman; Brown; Cook; Erbele; Fischer; Flakoll; Freborg; Grindberg; Hacker; Holmberg; Kilzer; Klein; Krebsbach; Kringstad; Lee, G.; Lee, J.; Mutch; Nething; Schobinger; Stenehjem; Syverson; Tollefson; Traynor; Trenbeath; Wardner

SB 2198 lost.

SECOND READING OF SENATE BILL

SB 2218: A BILL for an Act to create and enact two new sections to chapter 37-18 of the North Dakota Century Code, relating to funding and veterans' records; to amend and reenact sections 37-14-18 and 37-18-04 of the North Dakota Century Code, relating to supervision of county veterans' service officers and duties of the commissioner of veterans' affairs; and to provide a continuing appropriation.

ROLL CALL

The question being on the final passage of the bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 47 YEAS, 0 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

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

SB 2218 passed and the title was agreed to.

SECOND READING OF SENATE BILL

SB 2262: A BILL for an Act to amend and reenact subsection 4 of section 15.1-27-25 of the North Dakota Century Code, relating to expenditure of federal mineral royalties by counties.

ROLL CALL

The question being on the final passage of the bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 47 YEAS, 0 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

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

SB 2262 passed and the title was agreed to.

SECOND READING OF SENATE BILL

SB 2263: A BILL for an Act to amend and reenact section 6-06-07 of the North Dakota Century Code, relating to the field of membership of state-chartered credit unions.

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

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

NAYS: Bercier; Bowman; Krauter; Nelson; Triplett

SB 2263 passed and the title was agreed to.

SECOND READING OF SENATE BILL

SB 2354: A BILL for an Act to amend and reenact subsection 2 of section 50-22-01, subsection 2 of section 50-22-02, and section 50-22-02.2 of the North Dakota Century Code, relating to charitable solicitations.

ROLL CALL

The question being on the final passage of the bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 47 YEAS, 0 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

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

SB 2354 passed and the title was agreed to.

SECOND READING OF SENATE BILL

SB 2292: A BILL for an Act to create and enact a new section to chapter 65-02 of the North Dakota Century Code, relating to creation of an advisory board for workforce safety and insurance; to amend and reenact subsection 1 of section 21-10-01, subsections 7 and 13 of section 65-01-02, sections 65-02-01, 65-02-30, and 65-04-19.3, and subdivision b of subsection 3 of section 65-05-29 of the North Dakota Century Code, relating to reference to the workforce safety and insurance board of directors; and to repeal sections 65-02-03.1, 65-02-03.2, and 65-02-03.3 of the North Dakota Century Code, relating to the workforce safety and insurance board of directors.

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

YEAS: Bercier; Every; Fairfield; Heitkamp; Krauter; Lindaas; Mathern; Nelson; O'Connell; Robinson; Seymour; Tallackson; Taylor; Triplett; Warner

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

SB 2292 lost.

SECOND READING OF SENATE BILL

SB 2307: A BILL for an Act to create and enact a new section to chapter 65-04 of the North Dakota Century Code, relating to a workforce safety and insurance premium discount for smoke-free workplaces.

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 21 YEAS, 26 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

YEAS: Andrist; Bercier; Every; Fairfield; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Krauter; Lee, G.; Lindaas; Mathern; Nelson; O'Connell; Robinson; Seymour; Tallackson; Taylor; Tollefson; Triplett

NAYS: Bowman; Brown; Christmann; Cook; Dever; Erbele; Espegard; Hacker; Holmberg; Kilzer; Klein; Krebsbach; Kringstad; Lee, J.; Lyson; Mutch; Nething; Schobinger; Stenehjerm; Syverson; Thane; Traynor; Trenbeath; Urlacher; Wardner; Warner

SB 2307 lost.

SECOND READING OF SENATE CONCURRENT RESOLUTION

SCR 4003: A concurrent resolution designating, in conjunction with the state of Minnesota, the Main Avenue bridge between Fargo, North Dakota, and Moorhead, Minnesota, as the Veterans Memorial Bridge.

The question being on the final adoption of the amended resolution, which has been read, and has committee recommendation of DO PASS.

Engrossed SCR 4003 was declared adopted, and the title was agreed to on a voice vote.

SECOND READING OF SENATE CONCURRENT RESOLUTION

SCR 4005: A concurrent resolution designating United States Highway 2 through the state of North Dakota as the 164th Infantry Memorial Highway.

The question being on the final adoption of the amended resolution, which has been read, and has committee recommendation of DO PASS.

Engrossed SCR 4005 was declared adopted, and the title was agreed to on a voice vote.

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 2041, SB 2102, SB 2135, SB 2149, SB 2165, SB 2166, SB 2211, SB 2219, SB 2237, SB 2260, SB 2298, SB 2302, SB 2311, SB 2334, SCR 4009.

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

MR. PRESIDENT: The House has passed and your favorable consideration is requested on: HB 1057, HB 1074, HB 1120, HB 1159, HB 1201, HB 1265, HB 1280, HB 1293, HB 1313, HB 1324, HB 1325, HB 1359, HB 1387, HB 1413, HB 1418.

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

MR. PRESIDENT: The House has passed, the emergency clause carried, and your favorable consideration is requested on: HB 1038, HB 1048.

MOTION

SEN. STENEHJEM 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 2, 2005, which motion prevailed.

REPORT OF STANDING COMMITTEE

SB 2026: Political Subdivisions Committee (Sen. Cook, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2026 was placed on the Sixth order on the calendar.

Page 1, line 21, after the comma insert "a bond, or a letter of credit"

Page 2, line 1, replace "The" with "If a bond or letter of credit is provided in lieu of liability insurance, the bond or letter of credit must be payable to the registrar, with a cancellation notice provided to the registrar. A letter of credit must be irrevocable. The amount of a bond or letter of credit must be five hundred thousand dollars for a class A license, four hundred thousand dollars for a class B license, three hundred thousand dollars for a class C license, and two hundred thousand dollars for a class D license. If the registrar deems it appropriate or necessary, the"

Page 2, line 2, remove "necessary"

Page 2, line 12, replace "12-1-33-02.1" with "12.1-33-02.1"

Page 2, line 16, remove "to" and after "not" insert "to"

Page 2, line 22, after "coverage" insert ", a bond, or a letter of credit"

Page 3, line 26, after "file" insert ", a bond, or a letter of credit"

Page 4, line 6, remove "to" and after "not" insert "to"

Page 5, line 7, after "fails" insert "substantially" and remove "substantially"

Page 5, line 8, after "~~within~~" insert ", unless the failure is due to circumstances beyond the control of the contractor"

Page 6, line 1, overstrike "fully" and after "refund" insert "fully"

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2042: Education Committee (Sen. Freborg, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (3 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING). SB 2042 was placed on the Sixth order on the calendar.

Page 1, line 1, replace "sections" with "section" and remove "and 39-06-01.1"

Page 1, line 2, remove "and motor vehicle operators"

Page 1, line 3, remove "licenses"

Page 1, line 12, after "section" insert "The administrator" and remove the overstrike over "~~shall investigate any alleged violation of the~~"

Page 1, remove the overstrike over lines 13 through 16

Page 1, line 17, remove the overstrike over "~~violation of compulsory attendance provisions~~" and insert immediately thereafter "in accordance with this chapter or in accordance with the"

school's or school district's policies," and remove the overstrike over "~~and the county superintendent shall~~"

Page 1, remove the overstrike over lines 18 through 20

Page 1, line 21, remove the overstrike over "~~the compulsory attendance provisions~~" and insert immediately thereafter "in accordance with this chapter or in accordance with the school's or school district's policies", remove the overstrike over "~~The state's attorney~~", after "~~may~~" insert "shall", remove the overstrike over "~~petition~~", after "~~a~~" insert "juvenile", and remove the overstrike over "~~court~~,"

Page 1, remove the overstrike over lines 22 and 23

Page 2, remove lines 1 through 9

Page 2, line 10, replace "4." with "2."

Page 2, line 13, replace "5." with "3."

Page 2, remove lines 19 through 31

Page 3, remove lines 1 through 24

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2050: Finance and Taxation Committee (Sen. Urlacher, Chairman) recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2050 was rereferred to the **Appropriations Committee**.

REPORT OF STANDING COMMITTEE

SB 2090: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends **DO NOT PASS** (6 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). SB 2090 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2147: Agriculture Committee (Sen. Flakoll, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2147 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 create and enact a new section to chapter 4-01, a new section to chapter 6-09, a new section to chapter 57-39.2, and a new section to chapter 57-39.5 of the North Dakota Century Code, relating to the establishment of a beef marketing and a livestock loan guarantee program and to provide a sales tax exemption; to amend and reenact section 4-14.1-03.1 and subsection 1 of section 57-38.6-01 of the North Dakota Century Code, relating to agricultural grants; to provide for a report; to provide an appropriation; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 4-01 of the North Dakota Century Code is created and enacted as follows:

Beef marketing program - Establishment. The agriculture commissioner shall establish a source-verified and process-verified beef marketing program in consultation with the state board of animal health, the North Dakota stockmen's association, the North Dakota state university beef systems center of excellence, and the United States department of agriculture.

SECTION 2. AMENDMENT. Section 4-14.1-03.1 of the North Dakota Century Code is amended and reenacted as follows:

4-14.1-03.1. Agricultural products utilization commission - Authority.

1. The North Dakota agricultural products utilization commission may apply for, accept, and expend any appropriation, grant, gift, or service made available from public or private sources consistent with the purpose of this chapter.
2. The commission may administer grant programs consistent with the purpose of this chapter including:
 - a. A basic and applied research grant program;
 - b. A utilization and marketing grant program;
 - c. A cooperative marketing grant program;
 - d. A nature-based tourism grant program;
 - e. A technical assistance grant program for value-added businesses;
 - f. A farm diversification grant program;
 - g. An agricultural prototype development grant program; and a
 - h. A North American marketing grant program.
3. ~~The~~ As a condition of the grant, the commission may require, ~~by contract, repayment of a grant, in whole or in part, that the recipient repay some or all of the grant if the grant recipient does not fulfill the conditions under which the grant was awarded~~ of the grant. Repayment may be monetary or may be of any other type or method determined by the commission to be in the public interest.

SECTION 3. A new section to chapter 6-09 of the North Dakota Century Code is created and enacted as follows:

Livestock loan guarantee program - Establishment - Rules.

1. The Bank of North Dakota shall establish and administer a livestock loan guarantee program that is designed to expand livestock feeding in this state.
2. Under the program, the Bank may guarantee a loan made by a bank, a credit union, a savings and loan association, or any other lending institution in this state to the owner of a commercial feedlot that backgrounds or feeds cattle to harvest-ready weight. In the event of a default, the Bank shall pay to the lender the amount agreed upon, provided that the amount may not exceed eighty-five percent of the principal due the lender at the time the claim is approved.
3. The Bank shall adopt rules governing additional terms, conditions, and procedures necessary to meet the requirements of this section. The rules must include an administrative fee payable to the Bank and must provide that equity requirements may not exceed fifteen percent.

SECTION 4. AMENDMENT. Subsection 1 of section 57-38.6-01 of the North Dakota Century Code is amended and reenacted as follows:

1. "Agricultural commodity processing facility" means ~~a facility that through processing involving the employment of knowledge and labor~~ an agricultural operation that adds value to an agricultural commodity capable of being raised in this state and includes dairy operations, livestock feedlot operations, and swine feeding and finishing operations.

SECTION 5. A new section to chapter 57-39.2 of the North Dakota Century Code is created and enacted as follows:

Sales tax exemption - Production livestock facility construction.

1. Gross receipts from the sale of machinery, equipment, and structural materials incorporated into a new or expanding production livestock facility during or at the time of the facility's construction are exempt from taxes

under this chapter for the period beginning after June 30, 2005, and ending as of July 1, 2009.

2. The owner of the production livestock facility may apply to the commissioner for a refund of any taxes paid by a contractor, subcontractor, or builder if those taxes are claimable as an exemption under this section. The application for a refund must be made at the time and in the manner directed by the commissioner.
3. If the production livestock facility is not operational as a production livestock facility within five years from the date of the earliest refund to the facility's owner under this section, the owner of the facility is liable for the repayment of all exemptions granted to the owner under this section.
4. For purposes of this section, "livestock" means beef and dairy cattle, hogs, poultry, and sheep and "production livestock facility" does not include grain bins or other storage structures incidental to livestock production.

SECTION 6. A new section to chapter 57-39.5 of the North Dakota Century Code is created and enacted as follows:

Gross receipts tax exemption - Production livestock facility construction - Farm machinery and equipment. Gross receipts from the sale of farm machinery and equipment incorporated into a new or expanding production livestock facility at the time of the facility's construction and used exclusively in the production livestock facility are exempt from taxes under this chapter for the period beginning after June 30, 2005, and ending as of July 1, 2009. For purposes of this section, "livestock" means beef and dairy cattle, hogs, poultry, and sheep.

SECTION 7. REPORT TO COMMITTEES. Between the first and tenth legislative days of the regular session of the sixtieth legislative assembly as selected by the legislative council, the agriculture commissioner, the Bank of North Dakota, and the North Dakota stockmen's association shall provide a joint report regarding the livestock loan guarantee program to the standing agriculture committee of each house of the legislative assembly.

SECTION 8. APPROPRIATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$100,000, or so much of the sum as may be necessary, to the agriculture commissioner for the purpose of administering the beef marketing program, for the biennium beginning July 1, 2005, and ending June 30, 2007.

SECTION 9. APPROPRIATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$100,000, or so much of the sum as may be necessary, to the agriculture commissioner for the purpose of administering the farmers' market development and promotion program, for the biennium beginning July 1, 2005, and ending June 30, 2007.

SECTION 10. EXPIRATION DATE. Section 3 of this Act is effective through June 30, 2009, and after that date is ineffective."

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2168: Education Committee (Sen. Freborg, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2168 was placed on the Sixth order on the calendar.

Page 8, line 6, after "association" insert ". The administrator shall attribute the expenses on a per student basis by participating school district"

Page 9, line 11, after the second "each" insert "eligible educational association, based on the number of students in average daily membership in each"

Page 9, line 12, replace "an eligible educational" with "the"

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2187: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2187 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2213: Human Services Committee (Sen. J. Lee, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2213 was placed on the Sixth order on the calendar.

Page 1, line 2, after "reimbursement" insert "; and to provide an expiration date"

Page 1, line 7, replace "at the seventy-fifth percentile" with "for allowed services for the 2005-07 biennium at the rate of eighty-five percent"

Page 1, line 8, replace ". The seventy-fifth percentile of billed covered services must be determined as of" with "based upon a profile of fees submitted during 2004. The department, with the moneys appropriated, shall establish a fee reimbursement profile that maximizes access to care.

SECTION 2. EXPIRATION DATE. This Act is effective through June 30, 2007, and after that date is ineffective."

Page 1, remove line 9

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2215: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (4 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). SB 2215 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 provide for a legislative council study relating to the expansion of the uniform group insurance program.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE COUNCIL STUDY - UNIFORM GROUP INSURANCE PROGRAM. The legislative council shall consider studying, during the 2005-06 interim, the feasibility and desirability of expanding the uniform group insurance program to allow participation by permanent and temporary employees of private sector employers and by any other individual who is otherwise without health insurance coverage. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixtieth legislative assembly."

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2222: Education Committee (Sen. Freborg, Chairman) recommends **BE PLACED ON THE CALENDAR WITHOUT RECOMMENDATION** (5 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). SB 2222 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2223: Education Committee (Sen. Freborg, Chairman) recommends **DO NOT PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2223 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2230: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends **DO NOT PASS** (5 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2230 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2246: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2246 was placed on the Sixth order on the calendar.

Page 1, line 14, replace "house" with "travel"

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2247: Government and Veterans Affairs Committee (Sen. Krebsbach, 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 2247 was placed on the Sixth order on the calendar.

Page 1, line 1, remove "2003-05 biennium"

Page 1, line 4, remove "**2003-05**"

Page 1, line 10, replace the second "2005" with "2006"

Page 3, line 16, remove "2003-05"

Page 3, line 17, replace "three" with "four" and replace the second "2005" with "2006"

Page 3, line 24, replace "three" with "four"

Page 3, after line 25, insert:

"For purposes of retirement, salary and wage payments made under this Act are deemed earned in the month paid."

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2249: Judiciary Committee (Sen. Traynor, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2249 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2299: Finance and Taxation Committee (Sen. Urlacher, Chairman) recommends **DO NOT PASS** (5 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). SB 2299 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2306: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends **DO NOT PASS** (6 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). SB 2306 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2310: Judiciary Committee (Sen. Traynor, Chairman) recommends **DO NOT PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2310 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2323: Human Services Committee (Sen. J. Lee, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2323 was placed on the Sixth order on the calendar.

Page 2, line 9, replace "board of higher education" with "department of health"

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2328: Education Committee (Sen. Freborg, Chairman) recommends **DO NOT PASS** (5 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). SB 2328 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2363: Judiciary Committee (Sen. Traynor, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2363 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SCR 4015: Education Committee (Sen. Freborg, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SCR 4015 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SCR 4019: Education Committee (Sen. Freborg, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SCR 4019 was placed on the Sixth order on the calendar.

Page 2, line 1, replace "copies" with "a copy"

Page 2, line 2, after the first comma insert "who shall forward electronic copies to"

Renumber accordingly

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

William R. Horton, Secretary

