

## JOURNAL OF THE SENATE

## Fifty-ninth Legislative Assembly

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Bismarck, February 9, 2005

The Senate convened at 12:30 p.m., with President Pro Tem Grindberg presiding.

The prayer was offered by Reverend Aaron Arthaud, Church of Christ, Bismarck.

The roll was called and all members were present.

A quorum was declared by the President.

## CONSIDERATION OF AMENDMENTS

**SB 2383: SEN. WARNER (Human Services Committee) MOVED** that the amendments on SJ page 357 be adopted and then be **REREFERRED** to the **Appropriations Committee** with **DO PASS**, which motion prevailed.

## CONSIDERATION OF AMENDMENTS

**SB 2281: SEN. WARDNER (Finance and Taxation Committee) MOVED** that the amendments on SJ pages 353-354 be adopted and then be **REREFERRED** to the **Appropriations Committee** with **DO PASS**, which motion prevailed.

## CONSIDERATION OF AMENDMENTS

**SB 2033: SEN. G. LEE (Education Committee) MOVED** that the amendments on SJ page 351 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

## CONSIDERATION OF AMENDMENTS

**SB 2082: SEN. TRIPLETT (Political Subdivisions Committee) MOVED** that the amendments on SJ pages 351-352 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

## MOTION

**SEN. CHRISTMANN MOVED** that the rules be suspended and that after action taken on the Sixth order, SB 2160, SB 2335, SB 2381, SB 2390, and SB 2393 be placed on the Eleventh order, as amended, for immediate second reading and final passage, which motion prevailed.

## MOTION

**SEN. CHRISTMANN MOVED** that SB 2324, which is on the Sixth order, be laid over one legislative day, which motion prevailed.

## MOTION

**SEN. CHRISTMANN MOVED** that SB 2372, which is on the Eleventh order, be rereferred to the **Finance and Taxation Committee**, which motion prevailed. Pursuant to Sen. Christmann's motion, SB 2372 was rereferred.

## MOTION

**SEN. CHRISTMANN MOVED** that Engrossed SB 2333, which is on the Eleventh order, be rereferred to the **Education Committee**, which motion prevailed. Pursuant to Sen. Christmann's motion, Engrossed SB 2333 was rereferred.

## MOTION

**SEN. CHRISTMANN MOVED** that SB 2025 be placed at the bottom of the calendar, which motion prevailed.

## CONSIDERATION OF AMENDMENTS

**SB 2164: SEN. KREBSBACH (Industry, Business and Labor Committee) MOVED** that the amendments on SJ page 352 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

## CONSIDERATION OF AMENDMENTS

**SB 2200: SEN. TRENBEATH (Judiciary Committee) MOVED** that the amendments on SJ pages 352-353 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

**CONSIDERATION OF AMENDMENTS**

**SB 2278: SEN. KLEIN (Industry, Business and Labor Committee) MOVED** that the amendments on SJ page 353 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

**CONSIDERATION OF AMENDMENTS**

**SB 2305: SEN. TRIPLETT (Judiciary Committee) MOVED** that the amendments on SJ page 354 be adopted and then be placed on the Eleventh order with **DO NOT PASS**, which motion prevailed.

**CONSIDERATION OF AMENDMENTS**

**SB 2337: SEN. J. LEE (Human Services Committee) MOVED** that the amendments on SJ page 356 be adopted and then be placed on the Eleventh order with **DO NOT PASS**, which motion prevailed.

**CONSIDERATION OF AMENDMENTS**

**SB 2345: SEN. HACKER (Political Subdivisions Committee) MOVED** that the amendments on SJ page 356 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

**CONSIDERATION OF AMENDMENTS**

**SB 2351: SEN. KLEIN (Industry, Business and Labor Committee) MOVED** that the amendments on SJ page 356 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

**CONSIDERATION OF AMENDMENTS**

**SB 2370: SEN. SYVERSON (Government and Veterans Affairs Committee) MOVED** that the amendments on SJ page 356 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

**CONSIDERATION OF AMENDMENTS**

**SB 2395: SEN. WARNER (Human Services Committee) MOVED** that the amendments on SJ pages 358-359 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

**CONSIDERATION OF AMENDMENTS**

**SCR 4024: SEN. TAYLOR (Education Committee) MOVED** that the amendments on SJ page 359 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

**CONSIDERATION OF AMENDMENTS**

**SB 2335: SEN. HACKER (Judiciary Committee) MOVED** that the amendments on SJ pages 354-356 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

**SECOND READING OF SENATE BILL**

**SB 2335: A BILL** for an Act to create and enact chapter 51-29 of the North Dakota Century Code, relating to gift certificate sales, expiration dates, and service or maintenance fees; and to provide a penalty.

**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; 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; Stenehjerm; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Triplett; Urlacher; Wardner; Warner

Engrossed SB 2335 passed and the title was agreed to.

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**CONSIDERATION OF AMENDMENTS**

**SB 2160: SEN. DEVER (Political Subdivisions Committee) MOVED** that the amendments on SJ page 352 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

**SECOND READING OF SENATE BILL**

**SB 2160:** A BILL for an Act to provide for a legislative council study of administration and enforcement of the state building code.

**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; 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; Stenehjerm; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Triplett; Urlacher; Wardner; Warner

Engrossed SB 2160 passed and the title was agreed to.

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**CONSIDERATION OF AMENDMENTS**

**SB 2381: SEN. TRAYNOR (Judiciary Committee) MOVED** that the amendments on SJ page 357 be adopted and then be placed on the Eleventh order with **DO PASS**.

**REQUEST**

**SEN. FAIRFIELD REQUESTED** a recorded roll call vote on the motion to adopt the proposed amendments to SB 2381, which request was granted.

**REQUEST**

**SEN. MATHERN REQUESTED** a ruling from the President Pro Tem regarding the germaneness of the amendment to the original bill, which request was granted.

**RULING BY THE PRESIDENT PRO TEM**

**PRESIDENT PRO TEM GRINDBERG RULED** that the amendments are germane to the bill.

**ROLL CALL**

The question being the motion to adopt the amendments to SB 2381, the roll was called and there were 27 YEAS, 20 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bowman; Brown; Christmann; Cook; Erbele; Espgaard; Fischer; Freborg; Hacker; Holmberg; Kilzer; Klein; Krebsbach; Kringstad; Lee, G.; Mutch; Nething; Schobinger; Stenehjerm; Syverson; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

**NAYS:** Bercier; Dever; Every; Fairfield; Flakoll; Grindberg; Heitkamp; Krauter; Lee, J.; Lindaas; Lyson; Mathern; Nelson; O'Connell; Robinson; Seymour; Tallackson; Taylor; Triplett; Warner

The motion to adopt the amendments to SB 2381 passed.

SB 2381, as amended, was placed on the Eleventh order for immediate second reading and final passage.

**MOTION**

**SEN. TRIPLETT MOVED** that Engrossed SB 2381 be rereferred to the **Judiciary Committee**, which motion failed.

**SECOND READING OF SENATE BILL**

**SB 2381:** A BILL for an Act to create and enact a new subsection to section 65-05-32 of the North Dakota Century Code, relating to exceptions to the workers' compensation confidentiality requirements.

**ROLL CALL**

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 21 YEAS, 26 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bowman; Brown; Christmann; Dever; Erbele; Freborg; Hacker; Holmberg; Kilzer; Klein; Krebsbach; Kringstad; Lee, G.; Lyson; Mutch; Nething; Stenehjerm; Thane; Tollefson; Traynor

**NAYS:** Bercier; Cook; Espegard; Every; Fairfield; Fischer; Flakoll; Grindberg; Heitkamp; Krauter; Lee, J.; Lindaas; Mathern; Nelson; O'Connell; Robinson; Schobinger; Seymour; Syverson; Tallackson; Taylor; Trenbeath; Triplett; Urlacher; Wardner; Warner

Engrossed SB 2381 lost.

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#### CONSIDERATION OF AMENDMENTS

**SB 2390: SEN. COOK (Political Subdivisions Committee) MOVED** that the amendments on SJ pages 357-358 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

#### SECOND READING OF SENATE BILL

**SB 2390:** A BILL for an Act to provide for a legislative council study of city and county development impact fees.

#### 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; Espegard; Every; Fairfield; Fischer; Flakoll; Freborg; Grindberg; Hacker; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Mutch; Nelson; Nothing; O'Connell; Robinson; Schobinger; Seymour; Stenehjøm; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Triplett; Urlacher; Wardner; Warner

Engrossed SB 2390 passed and the title was agreed to.

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#### CONSIDERATION OF AMENDMENTS

**SB 2393: SEN. COOK (Finance and Taxation Committee) MOVED** that the amendments on SJ page 358 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

#### SECOND READING OF SENATE BILL

**SB 2393:** A BILL for an Act to provide for a legislative council study of sales, use, and gross receipts tax exemptions and rate reductions.

#### ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 36 YEAS, 11 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Brown; Christmann; Cook; Dever; Espegard; Fischer; Flakoll; Freborg; Grindberg; Hacker; Holmberg; Kilzer; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Mutch; Nelson; Nothing; Robinson; Schobinger; Stenehjøm; Syverson; Tallackson; Thane; Tollefson; Traynor; Trenbeath; Triplett; Urlacher; Wardner; Warner

**NAYS:** Bercier; Bowman; Erbele; Every; Fairfield; Heitkamp; Klein; Krauter; O'Connell; Seymour; Taylor

Engrossed SB 2393 passed and the title was agreed to.

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#### SECOND READING OF SENATE BILL

**SB 2067:** A BILL for an Act to amend and reenact sections 5-01-08 and 5-02-06 of the North Dakota Century Code, relating to the use of alcohol by a person under twenty-one years of age; 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 42 YEAS, 5 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bercier; Bowman; Brown; Christmann; Cook; Dever; Erbele; Espegard; Every; Fairfield; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Mathern; Mutch; Nelson; Nothing;

O'Connell; Robinson; Schobinger; Seymour; Stenehjerm; Syverson; Tallackson; Taylor; Tollefson; Traynor; Triplett; Urlacher; Wardner; Warner

**NAYS:** Hacker; Holmberg; Lyson; Thane; Trenbeath

Engrossed SB 2067 passed, the title was agreed to, and the emergency clause was declared carried.

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#### SECOND READING OF SENATE BILL

**SB 2099:** A BILL for an Act to amend and reenact sections 39-06-30 and 39-06-34, subsection 1 of section 39-06-42, sections 39-16-03.1 and 39-20-01, subsection 2 of section 39-20-04, and subsection 1 of section 39-20-04.1 of the North Dakota Century Code, relating to the meaning of the term conviction, time required for a decision after a hearing, driving while license is suspended, when entries on a driving record are confidential, the implied consent advisory for refusal to submit to alcohol test, procedure to negate effect of a refusal, and suspension of person under twenty-one years of age for driving with a prohibited alcohol concentration; and to repeal sections 39-16-30 and 39-16.1-21 of the North Dakota Century Code, relating to driving while a license is suspended.

#### 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; Stenehjerm; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Triplett; Urlacher; Wardner; Warner

Engrossed SB 2099 passed and the title was agreed to.

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#### SECOND READING OF SENATE BILL

**SB 2170:** A BILL for an Act to create and enact a new subsection to section 57-39.2-04 and a new subsection to section 57-40.2-04 of the North Dakota Century Code, relating to a sales and use tax exemption for carbon dioxide used for enhanced recovery of oil or natural gas; to amend and reenact subdivision b of subsection 5 of section 57-51.1-03 of the North Dakota Century Code, relating to an oil extraction tax exemption for incremental production from a tertiary recovery project; 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; 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; Stenehjerm; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Triplett; Urlacher; Wardner; Warner

Engrossed SB 2170 passed and the title was agreed to.

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#### SECOND READING OF SENATE BILL

**SB 2196:** A BILL for an Act to create and enact a new section to chapter 57-38 of the North Dakota Century Code, relating to an optional contribution by individual income taxpayers for programs and activities conducted by the silver-haired education association; to provide an appropriation; to provide a continuing 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 46 YEAS, 0 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bercier; Bowman; Brown; Christmann; Cook; Dever; Erbele; Espesgaard; Every; Fairfield; Fischer; Flakoll; Freborg; Grindberg; 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

**ABSENT AND NOT VOTING:** Hacker

Engrossed SB 2196 passed and the title was agreed to.

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**SECOND READING OF SENATE BILL**

**SB 2227:** A BILL for an Act to amend and reenact sections 23-11-01, 23-11-03, 23-11-11, 23-11-14, 23-11-20, 23-11-21, 23-11-23, and 23-11-24 of the North Dakota Century Code, relating to housing authority jurisdiction; 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 36 YEAS, 11 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bercier; Brown; Christmann; Erbele; Espesgaard; Every; Fairfield; Fischer; Flakoll; Hacker; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Nelson; Nething; O'Connell; Robinson; Seymour; Syverson; Tallackson; Taylor; Thane; Traynor; Trenbeath; Triplett; Wardner; Warner

**NAYS:** Bowman; Cook; Dever; Freborg; Grindberg; Kringstad; Mutch; Schobinger; Stenehjem; Tollefson; Urlacher

Engrossed SB 2227 passed, the title was agreed to, and the emergency clause was declared carried.

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**SECOND READING OF SENATE BILL**

**SB 2331:** A BILL for an Act to amend and reenact sections 39-06-06, 39-06-17, and 39-08-03 of the North Dakota Century Code, relating to portable telecommunications devices in motor vehicles.

**ROLL CALL**

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO NOT PASS, the roll was called and there were 9 YEAS, 38 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Every; Freborg; Kilzer; Lindaas; Mathern; Nelson; Tallackson; Thane; Tollefson

**NAYS:** Andrist; Bercier; Bowman; Brown; Christmann; Cook; Dever; Erbele; Espesgaard; Fairfield; Fischer; Flakoll; Grindberg; Hacker; Heitkamp; Holmberg; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lyson; Mutch; Nething; O'Connell; Robinson; Schobinger; Seymour; Stenehjem; Syverson; Taylor; Traynor; Trenbeath; Triplett; Urlacher; Wardner; Warner

Engrossed SB 2331 lost.

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**SECOND READING OF SENATE BILL**

**SB 2368:** A BILL for an Act to create and enact a new section to chapter 39-04 of the North Dakota Century Code, relating to nonprofit organization number plates.

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

**YEAS:** Andrist; Bercier; Brown; Dever; Erbele; Espesgaard; Every; Fairfield; Fischer; Hacker; Heitkamp; Holmberg; Lindaas; Mathern; Nelson; O'Connell; Robinson; Seymour; Stenehjem; Tallackson; Taylor; Traynor; Trenbeath; Urlacher; Wardner; Warner

**NAYS:** Bowman; Christmann; Cook; Flakoll; Freborg; Grindberg; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lyson; Mutch; Nething; Schobinger; Syverson; Thane; Tollefson; Triplett

Engrossed SB 2368 passed and the title was agreed to.

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**SECOND READING OF SENATE CONCURRENT RESOLUTION**

**SCR 4017:** A concurrent resolution urging Congress not to ratify the Central American Free Trade Agreement until Congress can guarantee the citizens of this state and this country that the domestic sugar industry will not suffer economic harm as a result of the agreement's provisions.

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

Engrossed SCR 4017 was declared adopted, and the title was agreed to on a voice vote.

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**SECOND READING OF SENATE CONCURRENT RESOLUTION**

**SCR 4020:** A concurrent resolution urging the President of the United States and the United States Secretary of Agriculture to continue the ban on importing cattle from Canada until a full and complete investigation of Canadian feeding methods and supplies can be conducted and methods for determining risk designations can be reviewed and evaluated.

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

Engrossed SCR 4020 was declared adopted, and the title was agreed to on a voice vote.

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**MOTION**

**SEN. CHRISTMANN MOVED** that SB 2051, which is on the Eleventh order, be laid over one legislative day, which motion prevailed.

**SECOND READING OF SENATE BILL**

**SB 2107:** A BILL for an Act to repeal section 52-02-05 of the North Dakota Century Code, relating to publication of unemployment insurance laws and rules by job service North Dakota.

**ROLL CALL**

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

**YEAS:** Andrist; Bercier; Bowman; Brown; Christmann; Cook; Dever; Erbele; Espesgaard; Every; Fairfield; Fischer; Flakoll; Freborg; Grindberg; Hacker; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; 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

**ABSENT AND NOT VOTING:** Kringstad

SB 2107 passed and the title was agreed to.

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**SECOND READING OF SENATE BILL**

**SB 2225:** A BILL for an Act to amend and reenact section 23-30-05 of the North Dakota Century Code, relating to regular meetings of electors of hospital districts.

**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; Nothing; O'Connell; Robinson; Schobinger; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Triplett; Urlacher; Wardner; Warner

SB 2225 passed and the title was agreed to.

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**SECOND READING OF SENATE BILL**

**SB 2359:** A BILL for an Act to amend and reenact subsection 2 of section 57-39.2-11, subsection 1 of section 57-39.2-12.1, and subsection 1 of section 57-40.2-07.1 of the North Dakota Century Code, relating to compensation of a certified service provider under streamlined sales tax collection agreements.

**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 44 YEAS, 3 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; Mutch; Nelson; O'Connell; Robinson; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Triplett; Urlacher; Wardner; Warner

**NAYS:** Mathern; Nothing; Schobinger

SB 2359 passed and the title was agreed to.

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**SECOND READING OF SENATE BILL**

**SB 2388:** A BILL for an Act to create and enact a new subsection to section 43-42-05 of the North Dakota Century Code, relating to reciprocity for the practice of respiratory therapy in emergency situations.

**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; Nothing; O'Connell; Robinson; Schobinger; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Triplett; Urlacher; Wardner; Warner

SB 2388 passed and the title was agreed to.

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**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 2058, SB 2062, SB 2115, SB 2155, SB 2176, SB 2205, SB 2207, SB 2208, SB 2234, SB 2254, SB 2276, SB 2332, SB 2338, SB 2369, SB 2376, SB 2384, SB 2403, SB 2404, SB 2410.

**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 2272.

**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 2141, SB 2250, SB 2273.

**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 1119, HB 1122, HB 1123, HB 1152, HB 1155, HB 1171, HB 1185, HB 1194, HB 1210, HB 1222, HB 1238, HB 1282, HB 1301, HB 1317, HB 1321, HB 1333, HB 1340, HB 1438, HB 1449, HB 1470, HB 1482, HB 1500.

**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 1177.

**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 1024.

**MOTION**

**SEN. CHRISTMANN MOVED** that the Senate be on the Fifth, Ninth, and Thirteenth orders of business and at the conclusion of those orders, the Senate stand adjourned until 12:30 p.m., Thursday, February 10, 2005, which motion prevailed.

**REPORT OF STANDING COMMITTEE**

**SB 2074: Industry, Business and Labor Committee (Sen. Mutch, Chairman)** recommends **DO PASS** (5 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2074 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2117: Industry, Business and Labor Committee (Sen. Mutch, Chairman)** recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2117 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2238: Finance and Taxation Committee (Sen. Urlacher, Chairman)** recommends **BE PLACED ON THE CALENDAR WITHOUT RECOMMENDATION** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2238 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2252: Human Services Committee (Sen. J. Lee, Chairman)** recommends **DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2252 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2256: Appropriations Committee (Sen. Holmberg, Chairman)** recommends **DO PASS** (10 YEAS, 5 NAYS, 0 ABSENT AND NOT VOTING). SB 2256 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2258: Industry, Business and Labor Committee (Sen. Mutch, Chairman)** recommends **DO NOT PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2258 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2259: Human Services Committee (Sen. J. Lee, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2259 was placed on the Sixth order on the calendar.

Page 1, line 1, replace "section" with "sections 23-07.5-01 and"

Page 1, after line 3, insert:

**"SECTION 1. AMENDMENT.** Section 23-07.5-01 of the North Dakota Century Code is amended and reenacted as follows:

**23-07.5-01. Definitions.** In this chapter, unless the context otherwise requires:

1. "Exposed individual" means a human being who had a significant exposure with another individual who is subject to testing and who is a firefighter, peace officer, correctional officer, court officer, law enforcement officer, emergency medical technician, or an individual trained and authorized by law or rule to render emergency medical assistance or treatment, including a person rendering aid under chapter 32-03.1.
2. "Health care provider" means any person licensed, certified, or otherwise authorized by the law of this state to provide health care services.
3. "Health care services" means any services included in the furnishing to any individual of hospitalization, or medical or dental care, or any services incident to the furnishing of that care or hospitalization, as well as the furnishing to any person of any other services for the purpose of preventing, alleviating, curing, or healing human illness or injury.
4. "Human immunodeficiency virus" means any identified causative agent of acquired immune deficiency syndrome.
5. "Human immunodeficiency virus infection" means the pathological state produced by a human body in response to the presence of the human immunodeficiency virus.
6. "Informed consent for testing" means the written permission of an individual to be tested for the presence of the human immunodeficiency virus.
7. ~~"Informed consent form" means a printed document on which an individual may signify that individual's permission to be tested for the presence of the human immunodeficiency virus.~~
8. "Personal physician" means the physician designated by a patient or individual who has had a significant exposure as the patient's or individual's primary physician or if no physician has been designated or the designated physician is unable to make a determination as to whether a significant exposure has occurred, the patient's primary attending physician. The term means the local health officer having jurisdiction in the area the significant exposure has allegedly occurred if the patient has no attending physician or designated primary physician.
9. 8. "Significant exposure" means:
  - a. Contact of broken skin or mucous membrane with a patient's blood or bodily fluids other than tears or perspiration;
  - b. The occurrence of a needle stick or scalpel or instrument wound in the process of caring for a patient; or
  - c. Exposure that occurs by any other method of transmission defined by the state department of health as a significant exposure.
10. 9. "Universal precautions" means measures that a health care provider, emergency medical technician, exposed individual, or an individual rendering aid under chapter 32-03.1 takes in accordance with recommendations of the United States public health service to prevent transmission of disease."

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**SB 2268, as engrossed: Appropriations Committee (Sen. Holmberg, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (12 YEAS, 3 NAYS, ABSENT AND NOT VOTING). Engrossed SB 2268 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 of waste rubber recycling and remediation."

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. LEGISLATIVE COUNCIL - WASTE RUBBER RECYCLING AND REMEDIATION STUDY.** The legislative council shall consider studying, during the 2005-06 interim, issues related to waste rubber recycling, abatement and remediation of waste rubber tire stockpiles, and the recovery of components of petroleum-based products. 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 2304: Human Services Committee (Sen. J. Lee, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2304 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 50-11.1-02 of the North Dakota Century Code, relating to services included within the definition of early childhood services; and to declare an emergency.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. AMENDMENT.** Section 50-11.1-02 of the North Dakota Century Code is amended and reenacted as follows:

**50-11.1-02. Definitions.** As used in this chapter, unless the context or subject matter otherwise requires:

1. "Child care center" means an early childhood facility where early childhood services are provided to nineteen or more children.
2. "County agency" means the county social service board in each of the counties of the state.
3. "Department" means the department of human services.
4. "Drop-in care" means the care of children on a one-time, occasional, or unscheduled basis to meet the short-term needs of families.
5. "Early childhood facility" means any facility where early childhood services are provided, whether the facility is known as a child care center, day care home, day care center, day nursery, family child care home, group child care home, preschool educational facility nursery school, kindergarten, child play school, progressive school, child development center, preschool, or known by any other name.
- ~~5.~~ 6. "Early childhood services" means the care, supervision, education, or guidance of a child or children, unaccompanied by the child's parent, guardian, or custodian, which is provided in exchange for money, goods, or other services and is, or is anticipated to be, ongoing for periods of two or more hours per day for a part of three or more days per week. Early childhood services does not include:
  - a. Substitute parental child care provided pursuant to chapter 50-11.
  - b. Child care provided in any educational facility, whether public or private, in grade one or above.
  - c. Child care provided in a kindergarten which has been established pursuant to chapter 15.1-22 or a nonpublic elementary school program approved pursuant to subsection 1 of section 15.1-06-06.
  - d. Child care provided to preschool age handicapped children in any educational facility through a program approved by the superintendent of public instruction.

- e. Child care provided in facilities operated in connection with a church, shopping center, business, or other establishment where children are cared for during periods of time not exceeding four continuous hours while the child's parent, guardian, or custodian is attending church services, shopping, or engaged in other activities, ~~other than employment~~, on or near the premises.
  - f. Schools or classes for religious instruction conducted by religious orders during the summer months for not more than two weeks, Sunday schools, weekly catechism, or other classes for religious instruction.
  - g. Summer resident or day camps for children which serve no preschool age children for more than two weeks.
  - h. Sporting events, practices for sporting events, or sporting or physical activities conducted under the supervision of an adult.
  - i. Headstart programs that are federally funded and meet federal headstart standards.
  - j. Child care provided by a hospital by medical personnel within the physical structure of the hospital to children who are ill.
- ~~6-~~ 7. "Family child care home" means an occupied private residence in which early childhood services are provided for no more than seven children at any one time, except that the term includes a residence providing early childhood services to two additional school-age children during the two hours immediately before and after the schoolday and all day, except Saturday and Sunday, when school is not in session during the official school year.
- ~~7-~~ 8. "Group child care home" or "group child care facility" means a child care facility where early childhood services are provided for eight through eighteen children or a facility, other than an occupied private residence, which serves fewer than eight children.
- ~~8-~~ 9. "In-home provider" means any person who provides early childhood services to children in the children's home.
- ~~9-~~ 10. "License" means the rights, authority, or permission granted by the department to operate a family child care home, group child care facility, child care center, or preschool educational facility.
- ~~10-~~ 11. "Multiple licensed facility" means an early childhood facility that provides more than one type of early childhood services.
- ~~14-~~ 12. "Preschool educational facility" means a facility that offers early childhood services and follows a preschool curriculum and course of study designed primarily to enhance the educational development of the children enrolled in the facility and that serves no child for more than three hours per day.
- ~~12-~~ 13. "Registrant" means the holder of a registration document issued by the department in accordance with this chapter.
- ~~13-~~ 14. "Registration" means the process whereby the department maintains a record of all in-home providers who have stated that they have complied or will comply with the prescribed standards and adopted rules.
- ~~14-~~ 15. "Registration document" is a written instrument issued by the department to publicly document that the registrant has complied with this chapter and the applicable rules and standards as prescribed by the department.

**SECTION 2. EMERGENCY.** This Act is declared to be an emergency measure."

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**SB 2321: Human Services Committee (Sen. J. Lee, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2321 was placed on the Sixth order on the calendar.

Page 1, line 3, after "tribe" insert "and a representative of the food service industry"

Page 1, line 8, overstrike "eleven" and insert immediately thereafter "thirteen"

Page 1, line 9, remove the overstrike over "~~four~~" and remove "three"

Page 1, line 12, after the comma insert "one individual from the food service industry,"

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**SB 2346: Transportation Committee (Sen. Trenbeath, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2346 was placed on the Sixth order on the calendar.

Page 1, line 6, after "A" insert "person may not sell, offer for sale, supply, or offer for supply gasoline that contains methyl tertiary butyl ether in quantities greater than five-tenths of one percent by volume. However, a person may ship gasoline containing methyl tertiary butyl ether within the state for disposition outside the state, including storage coincident to shipment."

Page 1, remove line 7

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**SB 2375: 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 2375 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 relating to a unified system of credential qualifications between North Dakota and Minnesota."

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. Educational standards and practices board - Unified credential system.** The educational standards and practices board shall enter discussions with officials from the state of Minnesota to develop a unified system of credential qualifications between the states. The board shall report its progress, findings, and any pending action to the sixtieth legislative assembly."

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**SB 2378: Judiciary Committee (Sen. Traynor, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2378 was placed on the Sixth order on the calendar.

Page 5, line 26, replace "child" with "family member" and remove "is under the age of nineteen and"

Page 5, line 27, after "in" insert "the"

Page 5, replace lines 30 and 31 with:

"a. Total earnings in pay period \_\_\_\_\_

b. Federal tax \_\_\_\_\_

c.	State tax	_____
d.	FICA (social security/medicare)	_____
e.	Total deductions (lines b+c+d)	_____
f.	Disposable earnings (line a less line e)	_____
g.	Twenty-five percent of line f	_____
h.	Minimum wage exemption (minimum wage times forty hours times number of weeks in pay period)	_____
i.	Line f less line h	_____
j.	Line g or line i (whichever is less)	_____
k.	Dependent exemption (twenty dollars per dependent per week, if claimed)	_____
l.	Adverse interest or setoff	_____
m.	Total of lines k and l	_____
n.	Line j less line m	_____ "

Page 6, remove lines 1 through 12

Page 6, line 13, replace "l" with "n"

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**SB 2402: Judiciary Committee (Sen. Traynor, Chairman)** recommends **DO NOT PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2402 was placed on the Eleventh order on the calendar.

#### REPORT OF STANDING COMMITTEE

**SCR 4001: Appropriations Committee (Sen. Holmberg, Chairman)** recommends **DO PASS** (15 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SCR 4001 was placed on the Eleventh order on the calendar.

#### REPORT OF STANDING COMMITTEE

**SCR 4022: Judiciary Committee (Sen. Traynor, Chairman)** recommends **DO NOT PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SCR 4022 was placed on the Eleventh order on the calendar.

#### REPORT OF STANDING COMMITTEE

**SCR 4027: Human Services Committee (Sen. J. Lee, Chairman)** recommends **DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SCR 4027 was placed on the Eleventh order on the calendar.

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

**William R. Horton, Secretary**