JOURNAL OF THE SENATE

Fifty-ninth Legislative Assembly

*** * * * ***

Bismarck, March 10, 2005

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

The prayer was offered by Pastor Roger L. Will, Evangel Temple, Bismarck.

The roll was called and all members were present except Senators Nething and Stenehjem.

A quorum was declared by the President.

COMMUNICATION FROM GOVERNOR JOHN HOEVEN

This is to inform you that on March 9, 2005, I have signed the following: SB 2124, SB 2126, SB 2140, SB 2154, SB 2156, SB 2161, SB 2165, SB 2171, SB 2176, SB 2185, SB 2207, and SB 2276.

COMMUNICATION FROM GOVERNOR JOHN HOEVEN
February 15, 2005

The Governor has made the following appointments during the 2005 Legislative Session that are subject to re-nomination and Senate confirmation:

Ms. Pamela Kostelecky, Dickinson, to the State Board of Higher Education, for a term of 4 years, effective July 1, 2005.

Mr. Richard Smith, Wahpeton, to the State Board of Higher Education, for a term of 4 years, effective July 1, 2005.

CONSIDERATION OF AMENDMENTS

HB 1478, as engrossed: SEN. WARDNER (Finance and Taxation Committee) MOVED that the amendments on SJ page 757 be adopted and then be **REREFERRED** to the **Appropriations Committee** with **DO PASS,** which motion prevailed.

CONSIDERATION OF AMENDMENTS

HB 1074, as engrossed: SEN. HACKER (Political Subdivisions Committee) MOVED that the amendments on SJ page 756 be adopted and then be placed on the Fourteenth order with **DO PASS,** which motion prevailed.

CONSIDERATION OF AMENDMENTS

HB 1312, as engrossed: SEN. KLEIN (Agriculture Committee) MOVED that the amendments on SJ page 756 be adopted and then be placed on the Fourteenth order with **DO PASS,** which motion prevailed.

CONSIDERATION OF AMENDMENTS

HB 1324, as engrossed: SEN. MUTCH (Industry, Business and Labor Committee) MOVED that the amendments on SJ page 756 be adopted and then be placed on the Fourteenth order with **DO PASS,** which motion prevailed.

CONSIDERATION OF AMENDMENTS

HB 1325, as engrossed: SEN. KREBSBACH (Industry, Business and Labor Committee) MOVED that the amendments on SJ page 757 be adopted and then be placed on the Fourteenth order with **DO PASS,** which motion prevailed.

MOTION

SEN. CHRISTMANN MOVED that Engrossed HB 1359, as amended, which is on the Fourteenth order, be laid over one legislative day, which motion prevailed.

MOTION

SEN. CHRISTMANN MOVED that HB 1336 be moved to the top of the Fourteenth order, which motion prevailed.

SECOND READING OF HOUSE BILL

HB 1336: A BILL for an Act to amend and reenact section 65-04-15 and subsection 4 of section 65-04-33 of the North Dakota Century Code, relating to reporting of employer

and employee zip codes for commerce purposes; and to repeal section 54-60-08 of the North Dakota Century Code, relating to publishing of employer and employee zip codes.

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

YEAS: Andrist; Bercier; Bowman; Brown; Christmann; 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; O'Connell; Robinson; Schobinger; Seymour; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Triplett; Urlacher; Wardner; Warner

NAYS: Cook

ABSENT AND NOT VOTING: Nething; Stenehjem

HB 1336 passed and the title was agreed to.

****

SECOND READING OF HOUSE BILL

HB 1188: A BILL for an Act to create and enact a new section to chapter 28-01 of the North Dakota Century Code, relating to a four-year statute of limitations for an action resulting from a breach of duty with respect to a real estate transaction.

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 45 YEAS, 0 NAYS, 0 EXCUSED, 2 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; O'Connell; Robinson; Schobinger; Seymour; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Triplett; Urlacher; Wardner; Warner

ABSENT AND NOT VOTING: Nething; Stenehjem

HB 1188, as amended, passed and the title was agreed to.

****

SECOND READING OF HOUSE BILL

HB 1200: A BILL for an Act to amend and reenact section 43-28-25 of the North Dakota Century Code, relating to dental services offered through a nonprofit organization; and to provide a penalty.

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 45 YEAS, 0 NAYS, 0 EXCUSED, 2 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; O'Connell; Robinson; Schobinger; Seymour; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Triplett; Urlacher; Wardner; Warner

ABSENT AND NOT VOTING: Nething; Stenehjem

Engrossed HB 1200, as amended, passed and the title was agreed to.

****

SECOND READING OF HOUSE BILL

HB 1036: A BILL for an Act to amend and reenact sections 4-18.1-14, 14-07.1-18, and 23-20.1-10, subsection 5 of section 26.1-10-11, section 31-13-09, subsection 4 of section 43-15-42.2, and sections 47-30.1-30.1, 50-06-15, 50-19-15, and 50-25.1-14 of

the North Dakota Century Code, relating to the release of confidential information; and to provide a penalty.

ROLL CALL

The question being on the final passage of the bill, which has been read, and has committee recommendation of DO NOT PASS, the roll was called and there were 5 YEAS, 40 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

YEAS: Christmann; Lyson; Mathern; Nelson; Syverson

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

ABSENT AND NOT VOTING: Nething; Stenehjem

HB 1036 lost.

****

SECOND READING OF HOUSE BILL

HB 1159: A BILL for an Act to create and enact a new section to chapter 5-03 of the North Dakota Century Code, relating to alcoholic beverage supplier licensing requirements; to amend and reenact sections 5-01-01, 5-01-11, and 5-03-06 of the North Dakota Century Code, relating to definitions, goods and services provided by alcohol wholesalers to retailers, and the authority of the tax commissioner to audit records of alcoholic beverage entities; to repeal section 5-03-01.2 of the North Dakota Century Code, relating to brand registration of alcoholic beverages; and to provide a penalty.

ROLL CALL

The question being on the final passage of the bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 44 YEAS, 1 NAY, 0 EXCUSED, 2 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; Robinson; Schobinger; Seymour; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Triplett; Urlacher; Wardner; Warner

NAYS: O'Connell

ABSENT AND NOT VOTING: Nething; Stenehjem

Reengrossed HB 1159 passed and the title was agreed to.

****

SECOND READING OF HOUSE BILL

HB 1179: A BILL for an Act to amend and reenact subsection 24 of section 57-39.2-04 of the North Dakota Century Code, relating to a sales tax exemption for assisted living facilities; and to provide an effective date.

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 45 YEAS, 0 NAYS, 0 EXCUSED, 2 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; O'Connell; Robinson; Schobinger; Seymour; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Triplett; Urlacher; Wardner; Warner

ABSENT AND NOT VOTING: Nething; Stenehjem

HB 1179 passed and the title was agreed to.

****

SECOND READING OF HOUSE BILL

HB 1057: A BILL for an Act to create and enact a new section to chapter 25-03.3 of the North Dakota Century Code, relating to commitment of sexually dangerous individuals; and to provide a penalty.

ROLL CALL

The question being on the final passage of the bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 45 YEAS, 0 NAYS, 0 EXCUSED, 2 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; O'Connell; Robinson; Schobinger; Seymour; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Triplett; Urlacher; Wardner; Warner

ABSENT AND NOT VOTING: Nething; Stenehjem

Engrossed HB 1057 passed and the title was agreed to.

****

SECOND READING OF HOUSE BILL

HB 1194: A BILL for an Act to create and enact a new section to chapter 15.1-29 of the North Dakota Century Code, relating to contract terms for the cross-border attendance of elementary and high school students.

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 45 YEAS, 0 NAYS, 0 EXCUSED, 2 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; O'Connell; Robinson; Schobinger; Seymour; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Triplett; Urlacher; Wardner; Warner

ABSENT AND NOT VOTING: Nething; Stenehjem

HB 1194 passed and the title was agreed to.

****

SECOND READING OF HOUSE BILL

HB 1213: A BILL for an Act to amend and reenact section 26.1-02-25 of the North Dakota Century Code, relating to the penalty for an insurance company selling unauthorized insurance without a license; and to declare an emergency.

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 45 YEAS, 0 NAYS, 0 EXCUSED, 2 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; O'Connell; Robinson; Schobinger; Seymour; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Triplett; Urlacher; Wardner; Warner

ABSENT AND NOT VOTING: Nething; Stenehjem

Engrossed HB 1213 passed, the title was agreed to, and the emergency clause was declared carried.

****

SECOND READING OF HOUSE BILL

HB 1240: A BILL for an Act to amend and reenact subsection 4 of section 43-23-08 of the North Dakota Century Code, relating to real estate salesperson education requirements for licensure; and to provide an effective date.

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 29 YEAS, 16 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

YEAS: Bercier; Brown; Christmann; Cook; Dever; Espegard; Fischer; Flakoll; Grindberg; Hacker; Holmberg; Kilzer; Klein; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lyson; Mathern; Nelson; Schobinger; Seymour; Tallackson; Thane; Traynor; Triplett; Urlacher; Wardner; Warner

NAYS: Andrist; Bowman; Erbele; Every; Fairfield; Freborg; Heitkamp; Krauter; Lindaas; Mutch; O'Connell; Robinson; Syverson; Taylor; Tollefson; Trenbeath

ABSENT AND NOT VOTING: Nething; Stenehjem

HB 1240 passed and the title was agreed to.

****

SECOND READING OF HOUSE BILL

HB 1268: A BILL for an Act to create and enact a new subsection to section 57-60-01 of the North Dakota Century Code, relating to definitions for coal conversion facilities privilage tax purposes; to amend and reenact sections 57-39.2-04.2 and 57-40.2-04.2, subsection 3 of section 57-60-01, and section 57-60-02 of the North Dakota Century Code, relating to sales, use, and coal conversion facilities privilege tax exemptions and rate reductions for environmental upgrade and repowering of a power plant; and to provide an effective date.

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 45 YEAS, 0 NAYS, 0 EXCUSED, 2 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; O'Connell; Robinson; Schobinger; Seymour; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Triplett; Urlacher; Wardner; Warner

ABSENT AND NOT VOTING: Nething; Stenehjem

Engrossed HB 1268 passed and the title was agreed to.

****

SECOND READING OF HOUSE BILL

HB 1278: A BILL for an Act to amend and reenact section 54-16-04.1 of the North Dakota Century Code, relating to the appropriation of federal funds.

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 43 YEAS, 1 NAY, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

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

NAYS: Lindaas

ABSENT AND NOT VOTING: Hacker; Nething; Stenehjem

HB 1278 passed and the title was agreed to.

****

SECOND READING OF HOUSE BILL

HB 1504: A BILL for an Act to amend and reenact subsection 27 of section 65-01-02 of the North Dakota Century Code, relating to workers' compensation coverage of marriage counseling.

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 4 YEAS, 41 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

YEAS: Dever; Klein; Mathern; Warner

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

ABSENT AND NOT VOTING: Nething; Stenehjem

HB 1504 lost.

****

SECOND READING OF HOUSE BILL

HB 1506: A BILL for an Act to amend and reenact section 65-05-19 of the North Dakota Century Code, relating to providing nondependency payments in certain workforce safety and insurance cases; and to provide for retroactive application.

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 45 YEAS, 0 NAYS, 0 EXCUSED, 2 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; O'Connell; Robinson; Schobinger; Seymour; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Triplett; Urlacher; Wardner; Warner

ABSENT AND NOT VOTING: Nething; Stenehjem

Engrossed HB 1506 passed and the title was agreed to.

****

CONSIDERATION OF MESSAGE FROM THE HOUSE

SEN. FREBORG MOVED that the Senate do not concur in the House amendments to Engrossed SB 2078 as printed on SJ page 709 and that a conference committee be appointed to meet with a like committee from the House, which motion prevailed on a voice vote.

APPOINTMENT OF CONFERENCE COMMITTEE

THE PRESIDENT APPOINTED as a Conference Committee on Engrossed SB 2078: Sens. Flakoll, G. Lee, Seymour.

CONSIDERATION OF MESSAGE FROM THE HOUSE

SEN. TRAYNOR MOVED that the Senate do concur in the House amendments to Engrossed SB 2061 as printed on SJ page 709, which motion prevailed on a voice vote.

Engrossed SB 2061, as amended, was placed on the Eleventh order of business.

SECOND READING OF SENATE BILL

SB 2061: A BILL for an Act to amend and reenact section 35-20-17 of the North Dakota Century Code, relating to a landlord's mobile home lien; 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 45 YEAS, 0 NAYS, 0 EXCUSED, 2 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; O'Connell; Robinson; Schobinger; Seymour; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Triplett; Urlacher; Wardner; Warner

ABSENT AND NOT VOTING: Nething; Stenehjem

Reengrossed SB 2061 passed and the title was agreed to.

****

CONSIDERATION OF MESSAGE FROM THE HOUSE

SEN. FREBORG MOVED that the Senate do concur in the House amendments to Engrossed SB 2079 as printed on SJ page 656, which motion prevailed on a voice vote.

Engrossed SB 2079, as amended, was placed on the Eleventh order of business.

SECOND READING OF SENATE BILL

SB 2079: A BILL for an Act to amend and reenact sections 15-10-18.3 and 15-10-18.5 of the North Dakota Century Code, relating to free higher education tuition and fees for dependents of veterans and survivors of firefighters, emergency medical services personnel, and peace officers.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 44 YEAS, 0 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

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

ABSENT AND NOT VOTING: Heitkamp; Nething; Stenehjem

Reengrossed SB 2079 passed and the title was agreed to.

****

CONSIDERATION OF MESSAGE FROM THE HOUSE

SEN. LYSON MOVED that the Senate do concur in the House amendments to Engrossed SB 2113 as printed on SJ page 709, which motion prevailed on a voice vote.

Engrossed SB 2113, as amended, was placed on the Eleventh order of business.

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

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

ABSENT AND NOT VOTING: Heitkamp; Nething; Stenehjem

Reengrossed SB 2113 passed and the title was agreed to.

****

CONSIDERATION OF MESSAGE FROM THE HOUSE

SEN. FREBORG MOVED that the Senate do concur in the House amendments to Engrossed SB 2163 as printed on SJ page 710, which motion prevailed on a voice vote.

Engrossed SB 2163, as amended, was placed on the Eleventh order of business.

SECOND READING OF SENATE BILL

SB 2163: A BILL for an Act to create and enact a new section to chapter 15.1-19 of the North Dakota Century Code, relating to students' possession and self-administration of medication for the treatment of asthma and anaphylaxis.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 44 YEAS, 0 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

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

ABSENT AND NOT VOTING: Heitkamp; Nething; Stenehjem

Reengrossed SB 2163 passed and the title was agreed to.

****

CONSIDERATION OF MESSAGE FROM THE HOUSE

SEN. TRAYNOR MOVED that the Senate do concur in the House amendments to Engrossed SB 2182 as printed on SJ page 710, which motion prevailed on a voice vote.

Engrossed SB 2182, as amended, was placed on the Eleventh order of business.

SECOND READING OF SENATE BILL

SB 2182: A BILL for an Act to provide for the validity of certain conveyances by an estate or trust; and to provide for application.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 44 YEAS, 0 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

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

ABSENT AND NOT VOTING: Heitkamp; Nething; Stenehjem

Reengrossed SB 2182 passed and the title was agreed to.

****

MOTION

SEN. CHRISTMANN MOVED that the Senate resolve itself into a Confirmation Session, which motion prevailed.

REPORT OF SELECT COMMITTEE

MR. PRESIDENT: Your **Select Committee (Sen. Flakoll, Chairman)** appointed to consider the nominations for the North Dakota State Board of Higher Education, do advise and consent to the nomination of Pamela Kostelecky.

SEN. FLAKOLL MOVED that the report be adopted.

ROLL CALL

The question being will the Senate "advise and consent to the nomination of Pamela Kostelecky for the North Dakota State Board of Higher Education", the roll was called and there were 44 YEAS, 0 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

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

ABSENT AND NOT VOTING: Heitkamp; Nething; Stenehjem

The Senate advises and consents to the nomination of Pamela Kostelecky for the North Dakota State Board of Education.

REPORT OF SELECT COMMITTEE

MR. PRESIDENT: Your **Select Committee (Sen. Flakoll, Chairman)** appointed to consider the nominations for the North Dakota State Board of Higher Education, do advise and consent to the nomination of Richard Smith.

SEN. FLAKOLL MOVED that the report be adopted.

ROLL CALL

The question being will the Senate "advise and consent to the nomination of Richard Smith for the North Dakota State Board of Higher Education", the roll was called and there were 44 YEAS, 0 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

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

ABSENT AND NOT VOTING: Heitkamp; Nething; Stenehjem

The Senate advises and consents to the nomination of Richard Smith for the North Dakota State Board of Education.

MOTION

SEN. CHRISTMANN MOVED that the Confirmation Session be dissolved, which motion prevailed.

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)

MR. SPEAKER: The Senate has concurred in the House amendments and subsequently passed: SB 2061, SB 2079, SB 2113, SB 2163, and SB 2182.

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)

MR. SPEAKER: The Senate does not concur in the House amendments to SB 2078 and the President has appointed as a conference committee to act with a like committee from the House on:

SB 2078: Sens. Flakoll; G. Lee; Seymour

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)

MR. SPEAKER: The Senate has passed unchanged: HB 1112, HB 1113, HB 1142, HB 1198, HB 1202, HB 1233, HB 1260, HCR 3001, HCR 3022.

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)

MR. SPEAKER: The Senate has passed, the emergency clause failed, unchanged: HB 1048.

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)

MR. SPEAKER: The Senate has failed to pass: HB 1488.

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

MR. PRESIDENT: The House has passed unchanged: SB 2404.

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

MR. PRESIDENT: The House has amended and passed: SB 2174, SB 2194, SB 2211, SB 2231.

HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2174

Page 1, line 9, replace "one-sixth" with "one-twelfth"

Renumber accordingly

HOUSE AMENDMENTS TO SENATE BILL NO. 2194

Page 1, line 14, after "court" insert "or proof of payment of the claim by a guaranty association"

Page 2, line 11, replace "and" with "an"

Page 2, line 19, after "insurer" insert "as a class 7 claim under section 26.1-06.1-41"

Page 3, line 7, after "court" insert "or proof of payment of the claim by a guaranty association"

Renumber accordingly

HOUSE AMENDMENTS TO SENATE BILL NO. 2211

Page 1, line 22, overstrike "A" and insert immediately thereafter "If the contract involves facility alteration or real property improvement, a"

Renumber accordingly

HOUSE AMENDMENTS TO SENATE BILL NO. 2231

Page 1, replace lines 6 through 8 with:

"**Product rebates - Acceptable mailing addresses.** A person who is eligible to receive a mail-in rebate for the purchase of a product or merchandise must be given the option of providing either a street address or a post-office box number as a mailing address."

Renumber accordingly

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

MR. PRESIDENT: The House has amended, subsequently passed, and the emergency clause carried: SB 2094.

HOUSE AMENDMENTS TO SENATE BILL NO. 2094

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

Page 3, after line 24, insert:

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

Renumber accordingly

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

MR. PRESIDENT: The House has failed to pass: SB 2042.

DELIVERY OF ENROLLED BILLS AND RESOLUTIONS

The following bills were delivered to the Governor for approval on March 10, 2005: SB 2062, SB 2064, SB 2065, SB 2066, SB 2109, SB 2155, SB 2166, SB 2180, SB 2189, SB 2199, SB 2210.

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

MR. PRESIDENT: The Speaker has signed and your signature is respectfully requested on: HB 1032, HB 1046, HB 1054, HB 1095, HB 1110, HB 1208, HB 1243, HB 1281, HCR 3045.

MOTION

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

MOTION

SEN. CHRISTMANN MOVED that the Senate be on the Fourth, Fifth, Thirteenth, and Sixteenth orders of business and at the conclusion of those orders, the Senate stand adjourned until 12:30 p.m., Friday, March 11, 2005, which motion prevailed.

REPORT OF STANDING COMMITTEE

HB 1061, as engrossed: Judiciary Committee (Sen. Traynor, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1061 was placed on the Sixth order on the calendar.

Page 1, line 10, remove "also"

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1106: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends **DO PASS** (5 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). HB 1106 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1149, as engrossed: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1149 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

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

REPORT OF STANDING COMMITTEE

HB 1311: Education Committee (Sen. Freborg, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1311 was placed on the Sixth order on the calendar.

Page 1, line 5, replace "$119,917" with "$119,190"

Page 1, line 11, after the period insert "The following affected districts listed are entitled to receive reimbursements:

Velva 1	$24,355
TGU 60	93,514
Lewis and Clark	1,321"

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1327, as engrossed: Transportation Committee (Sen. Trenbeath, Chairman) recommends **DO PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1327 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1429: Government and Veterans Affairs Committee (Sen. Krebsbach, Chairman) recommends **DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1429 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1430, as engrossed: Government and Veterans Affairs Committee (Sen. Krebsbach, Chairman) recommends **DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1430 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1432: Government and Veterans Affairs Committee (Sen. Krebsbach, Chairman) recommends **DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1432 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HCR 3010: Natural Resources Committee (Sen. Lyson, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HCR 3010 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HCR 3019, as engrossed: Natural Resources Committee (Sen. Lyson, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HCR 3019 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HCR 3031: 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). HCR 3031 was placed on the Sixth order on the calendar.

Page 1, line 2, replace the second comma with a semicolon

Page 1, line 3, replace the comma with a semicolon

Page 1, line 4, after "care" insert ", child welfare services, social services, environmental protection, education, and law enforcement" and replace the comma with "; the identification and study of the social and fiscal impact of providing social services in counties within and adjacent to the reservations;"

Page 1, line 25, replace the comma with a semicolon

Page 2, line 1, replace the comma with a semicolon and after "care" insert ", child welfare services, social services, environmental protection, education, and law enforcement"

Page 2, line 2, replace the comma with "; the identification and study of the social and fiscal impact of providing social services in counties within and adjacent to the reservations;"

Renumber accordingly

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

William R. Horton, Secretary