

## JOURNAL OF THE SENATE

## Sixty-second Legislative Assembly

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Bismarck, February 16, 2011

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

The prayer was offered by Pastor Marc P. Eidahl, New Life Church, Bismarck.

The roll was called and all members were present except Senators Berry and Grindberg.

A quorum was declared by the President.

## CORRECTION AND REVISION OF THE JOURNAL

**MR. PRESIDENT:** Your **Committee on Correction and Revision of the Journal (Sen. Andrist, Chairman)** has carefully examined the Journal of the Twenty-ninth Day and recommends that it be corrected as follows and when so corrected, recommends that it be approved:

Page 388, line 32, remove "amended"

**SEN. ANDRIST MOVED** that the report be adopted, which motion prevailed.

## THE SENATE RECOGNIZED THE PRESENCE OF:

Former Lt. Governor and President of the Senate Rosemarie Myrdal.

## CONSIDERATION OF AMENDMENTS

**SB 2265: SEN. SCHNEIDER (Industry, Business and Labor Committee) MOVED** that the amendments on SJ pages 415-416 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed on a voice vote.

## CONSIDERATION OF AMENDMENTS

**SB 2232: SEN. SORVAAG (Judiciary Committee) MOVED** that the amendments on SJ pages 413-414 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed on a voice vote.

## CONSIDERATION OF AMENDMENTS

**SB 2285: SEN. NETHING (Judiciary Committee) MOVED** that the amendments on SJ page 416 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed on a voice vote.

## MOTION

**SEN. CHRISTMANN MOVED** that SB 2237 and SB 2367 be placed at the top of the Eleventh order immediately following Sixth order action, which motion prevailed.

## CONSIDERATION OF AMENDMENTS

**SB 2237, as engrossed: SEN. ANDRIST (Industry, Business and Labor Committee) MOVED** that the amendments on SJ page 414 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed on a voice vote.

## SECOND READING OF SENATE BILL

**SB 2237:** A BILL for an Act to amend and reenact subsection 7 of section 26.1-04-03 of the North Dakota Century Code, relating to prohibited practices in the insurance business.

## 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; Bowman; Burckhard; Christmann; Cook; Dever; Dotzenrod; Erbele; Fischer; Flakoll; Freborg; Heckaman; Hogue; Holmberg; Kilzer; Klein; Krebsbach; Laffen; Larsen; Lee, G.; Lee, J.; Luick; Lyson; Marcellais; Mathern; Miller; Murphy; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Robinson; Schaible; Schneider; Sitte; Sorvaag; Stenehjem; Taylor; Triplett; Uglem; Wanzek; Wardner; Warner

**ABSENT AND NOT VOTING:** Berry; Grindberg

Reengrossed SB 2237 passed.

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#### **CONSIDERATION OF AMENDMENTS**

**SB 2367: SEN. SITTE (Judiciary Committee) MOVED** that the amendments on SJ pages 416-417 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed on a voice vote.

#### **SECOND READING OF SENATE BILL**

**SB 2367:** A BILL to provide for a legislative management study relating to divorce reform and education.

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

**YEAS:** Andrist; Bowman; Burckhard; Christmann; Cook; Dever; Dotzenrod; Erbele; Fischer; Flakoll; Freborg; Heckaman; Hogue; Holmberg; Kilzer; Klein; Krebsbach; Laffen; Larsen; Lee, G.; Luick; Lyson; Mathern; Miller; Murphy; Nething; Nodland; O'Connell; Oehlke; Olafson; Robinson; Schaible; Sitte; Sorvaag; Stenehjem; Taylor; Triplett; Uglem; Wanzek; Wardner; Warner

**NAYS:** Lee, J.; Marcellais; Nelson; Schneider

**ABSENT AND NOT VOTING:** Berry; Grindberg

Engrossed SB 2367 passed.

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#### **SECOND READING OF SENATE BILL**

**SB 2206:** A BILL for an Act to create and enact two new sections to chapter 2-05 of the North Dakota Century Code, relating to rules regarding anemometer towers and to an anemometer database; 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 45 YEAS, 0 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bowman; Burckhard; Christmann; Cook; Dever; Dotzenrod; Erbele; Fischer; Flakoll; Freborg; Heckaman; Hogue; Holmberg; Kilzer; Klein; Krebsbach; Laffen; Larsen; Lee, G.; Lee, J.; Luick; Lyson; Marcellais; Mathern; Miller; Murphy; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Robinson; Schaible; Schneider; Sitte; Sorvaag; Stenehjem; Taylor; Triplett; Uglem; Wanzek; Wardner; Warner

**ABSENT AND NOT VOTING:** Berry; Grindberg

Engrossed SB 2206 passed and the emergency clause was declared carried.

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#### **SECOND READING OF SENATE BILL**

**SB 2048:** A BILL for an Act to create and enact a new subsection to section 40-58-20 of the North Dakota Century Code, relating to benefits received by renaissance zone

property from tax increment financing districts; and to amend and reenact subsection 1 of section 40-63-03 of the North Dakota Century Code, relating to benefits received by tax increment financing district property from renaissance zones.

#### 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 23 YEAS, 22 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bowman; Burckhard; Christmann; Cook; Dever; Erbele; Fischer; Freborg; Hogue; Klein; Larsen; Luick; Miller; Nodland; Oehlke; Olafson; Schaible; Sitte; Stenehjem; Uglem; Wanzek; Wardner

**NAYS:** Dotzenrod; Flakoll; Heckaman; Holmberg; Kilzer; Krebsbach; Laffen; Lee, G.; Lee, J.; Lyson; Marcellais; Mathern; Murphy; Nelson; Nething; O'Connell; Robinson; Schneider; Sorvaag; Taylor; Triplett; Warner

**ABSENT AND NOT VOTING:** Berry; Grindberg

Engrossed SB 2048 lost.

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#### SECOND READING OF SENATE BILL

**SB 2109:** A BILL for an Act to amend and reenact section 15-10-17, subsection 6 of section 39-03.1-11, sections 39-03.1-11.2 and 39-03.1-14.1, subsection 3 of section 54-52-02.1, section 54-52-03, subsections 3 and 6 of section 54-52-17, sections 54-52-27 and 54-52-28, subsection 3 of section 54-52.1-03, and subsection 3 of section 54-52.6-09 of the North Dakota Century Code, relating to special annuity purchases in the alternate retirement program for university system employees, surviving spouse payment options under the highway patrolmen's retirement plan, calculation of member service credit under the highway patrolmen's retirement plan, election of members to the public employees retirement system board, calculation of normal retirement date for peace officers and correctional officers under the public employees retirement system, payment of member account balances under the public employees retirement system, purchase of sick leave credit under the public employees retirement system, spousal elections to participate in the uniform group insurance program, reporting of employer pickups under the defined contribution retirement plan, and Internal Revenue Code compliance under the highway patrolmen's retirement plan and the public employees retirement system.

#### ROLL CALL

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 43 YEAS, 2 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bowman; Burckhard; Cook; Dever; Dotzenrod; Erbele; Fischer; Flakoll; Freborg; Heckaman; Hogue; Holmberg; Kilzer; Klein; Krebsbach; Laffen; Larsen; Lee, G.; Lee, J.; Lyson; Marcellais; Mathern; Miller; Murphy; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Robinson; Schaible; Schneider; Sitte; Sorvaag; Stenehjem; Taylor; Triplett; Uglem; Wanzek; Wardner; Warner

**NAYS:** Christmann; Luick

**ABSENT AND NOT VOTING:** Berry; Grindberg

Engrossed SB 2109 passed.

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#### SECOND READING OF SENATE BILL

**SB 2327:** A BILL for an Act to amend and reenact subdivision a of subsection 2 of section 16.1-10-02 of the North Dakota Century Code, relating to the use of state or political subdivision services or property for political purposes; 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 37 YEAS, 8 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bowman; Burckhard; Christmann; Cook; Dever; Dotzenrod; Erbele; Fischer; Flakoll; Freborg; Hogue; Holmberg; Kilzer; Klein; Krebsbach; Laffen; Larsen; Lee, G.; Lee, J.; Luick; Lyson; Miller; Nething; Nodland; Oehlke; Olafson; Schaible; Schneider; Sitte; Sorvaag; Stenehjerm; Taylor; Uglem; Wanzek; Wardner; Warner

**NAYS:** Heckaman; Marcellais; Mathern; Murphy; Nelson; O'Connell; Robinson; Triplett

**ABSENT AND NOT VOTING:** Berry; Grindberg

Engrossed SB 2327 passed.

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**SECOND READING OF SENATE BILL**

**SB 2317:** A BILL for an Act to create and enact a new section to chapter 15.1-13 of the North Dakota Century Code, relating to the approval of theological studies instructors; and to amend and reenact section 15.1-21-02.1 of the North Dakota Century Code, relating to theological studies courses.

**ROLL CALL**

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 43 YEAS, 2 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bowman; Burckhard; Christmann; Cook; Dever; Dotzenrod; Erbele; Fischer; Flakoll; Freborg; Heckaman; Hogue; Holmberg; Kilzer; Klein; Krebsbach; Laffen; Larsen; Lee, G.; Lee, J.; Luick; Lyson; Marcellais; Mathern; Miller; Murphy; Nelson; Nething; Nodland; O'Connell; Olafson; Robinson; Schaible; Schneider; Sitte; Sorvaag; Stenehjerm; Taylor; Uglem; Wanzek; Wardner; Warner

**NAYS:** Oehlke; Triplett

**ABSENT AND NOT VOTING:** Berry; Grindberg

Engrossed SB 2317 passed.

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**SECOND READING OF SENATE BILL**

**SB 2352:** A BILL for an Act to create and enact a new subsection to section 20.1-01-01 and a new section to chapter 20.1-01 of the North Dakota Century Code, relating to hunting through the internet; 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 43 YEAS, 2 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bowman; Burckhard; Christmann; Cook; Dever; Dotzenrod; Fischer; Flakoll; Freborg; Heckaman; Hogue; Kilzer; Klein; Krebsbach; Laffen; Larsen; Lee, G.; Lee, J.; Luick; Lyson; Marcellais; Mathern; Miller; Murphy; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Robinson; Schaible; Schneider; Sitte; Sorvaag; Stenehjerm; Taylor; Triplett; Uglem; Wanzek; Wardner; Warner

**NAYS:** Erbele; Holmberg

**ABSENT AND NOT VOTING:** Berry; Grindberg

Engrossed SB 2352 passed.

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**SECOND READING OF SENATE BILL**

**SB 2003:** A BILL for an Act to provide an appropriation for defraying the expenses of the attorney general; to create and enact two new sections to chapter 18-01 of the North Dakota Century Code, relating to fire and tornado fund fees and petroleum release compensation fund fees; to amend and reenact sections 12-60-25, 54-12-11, and 57-43.1-03.2 of the North Dakota Century Code, relating to missing children, the salary of the attorney general, and refunds of tax for fuel purchased by native Americans; to provide an exemption; 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 44 YEAS, 1 NAY, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bowman; Burckhard; Christmann; Cook; Dever; Dotzenrod; Erbele; Fischer; Flakoll; Freborg; Heckaman; Hogue; Holmberg; Kilzer; Klein; Krebsbach; Laffen; Larsen; Lee, G.; Lee, J.; Luick; Lyson; Marcellais; Miller; Murphy; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Robinson; Schaible; Schneider; Sitte; Sorvaag; Stenehjem; Taylor; Triplett; Uglem; Wanzek; Wardner; Warner

**NAYS:** Mathern

**ABSENT AND NOT VOTING:** Berry; Grindberg

Engrossed SB 2003 passed and the emergency clause was declared carried.

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**SECOND READING OF SENATE BILL**

**SB 2119:** A BILL for an Act to amend and reenact sections 19-03.1-05, 19-03.1-07, 19-03.1-09, 19-03.1-11, and 19-03.1-13 of the North Dakota Century Code, relating to the scheduling of controlled substances.

**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; Bowman; Burckhard; Christmann; Cook; Dever; Dotzenrod; Erbele; Fischer; Flakoll; Freborg; Heckaman; Hogue; Holmberg; Kilzer; Klein; Krebsbach; Laffen; Larsen; Lee, G.; Lee, J.; Luick; Lyson; Marcellais; Mathern; Miller; Murphy; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Robinson; Schaible; Schneider; Sitte; Sorvaag; Stenehjem; Taylor; Triplett; Uglem; Wanzek; Wardner; Warner

**ABSENT AND NOT VOTING:** Berry; Grindberg

Engrossed SB 2119 passed.

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**SECOND READING OF SENATE BILL**

**SB 2124:** A BILL for an Act to create and enact two new subsections to section 13-04.1-01.1, sections 13-04.1-04.1 and 13-04.1-04.2, and four new sections to chapter 13-04.1 of the North Dakota Century Code, relating to the definition of a net branch and net branching arrangement, surety bond requirements, minimum net worth requirements, confidentiality, notice regarding change of name and address, call reports, and commissioner reporting to nationwide mortgage licensing system and registry with regard to money brokers; to amend and reenact sections 13-04.1-03, 13-04.1-04, 13-04.1-07, 13-04.1-08, 13-04.1-08.1, 13-04.1-09, 13-04.1-11, and 13-10-03 and subsection 6 of section 13-10-16 of the North Dakota Century Code, relating to application for branch offices, maintenance of records, revocation of license, suspension and removal of agency officers and employees, prohibited acts and practices, investigation and examination authority of money brokers, and

licensing and registration of mortgage loan originators; 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; Bowman; Burckhard; Christmann; Cook; Dever; Dotzenrod; Erbele; Fischer; Flakoll; Freborg; Heckaman; Hogue; Holmberg; Kilzer; Klein; Krebsbach; Laffen; Larsen; Lee, G.; Lee, J.; Luick; Lyson; Marcellais; Mathern; Miller; Murphy; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Robinson; Schaible; Schneider; Sitte; Sorvaag; Stenehjerm; Taylor; Triplett; Uglem; Wanzek; Wardner; Warner

**ABSENT AND NOT VOTING:** Berry; Grindberg

Engrossed SB 2124 passed.

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#### SECOND READING OF SENATE BILL

**SB 2295:** A BILL for an Act to amend and reenact section 53-08-02 and subsection 2 of section 53-08-03 of the North Dakota Century Code, relating to recreational immunity.

#### 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 35 YEAS, 10 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bowman; Burckhard; Christmann; Cook; Dever; Dotzenrod; Erbele; Fischer; Flakoll; Freborg; Holmberg; Kilzer; Klein; Krebsbach; Laffen; Larsen; Lee, G.; Lee, J.; Luick; Lyson; Miller; Nething; Nodland; O'Connell; Oehlke; Olafson; Robinson; Schaible; Sitte; Sorvaag; Stenehjerm; Uglem; Wanzek; Wardner

**NAYS:** Heckaman; Hogue; Marcellais; Mathern; Murphy; Nelson; Schneider; Taylor; Triplett; Warner

**ABSENT AND NOT VOTING:** Berry; Grindberg

SB 2295 passed.

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#### SECOND READING OF SENATE BILL

**SB 2266:** A BILL for an Act to create and enact a new section to chapter 12-44.1 of the North Dakota Century Code, relating to the assessment of booking fees by correctional facilities.

#### 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 0 YEAS, 45 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

**NAYS:** Andrist; Bowman; Burckhard; Christmann; Cook; Dever; Dotzenrod; Erbele; Fischer; Flakoll; Freborg; Heckaman; Hogue; Holmberg; Kilzer; Klein; Krebsbach; Laffen; Larsen; Lee, G.; Lee, J.; Luick; Lyson; Marcellais; Mathern; Miller; Murphy; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Robinson; Schaible; Schneider; Sitte; Sorvaag; Stenehjerm; Taylor; Triplett; Uglem; Wanzek; Wardner; Warner

**ABSENT AND NOT VOTING:** Berry; Grindberg

SB 2266 lost.

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**SECOND READING OF SENATE BILL**

**SB 2070:** A BILL for an Act to amend and reenact sections 4 and 5 of chapter 3 of the 2009 Session Laws, relating to the fire and tornado fund and the petroleum release compensation fund; 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; Bowman; Burckhard; Christmann; Cook; Dever; Dotzenrod; Erbele; Fischer; Flakoll; Freborg; Heckaman; Hogue; Holmberg; Kilzer; Klein; Krebsbach; Laffen; Larsen; Lee, G.; Lee, J.; Luick; Lyson; Marcellais; Mathern; Miller; Murphy; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Robinson; Schaible; Schneider; Sitte; Sorvaag; Stenehjem; Taylor; Triplett; Uglem; Wanzek; Wardner; Warner

**ABSENT AND NOT VOTING:** Berry; Grindberg

SB 2070 passed and the emergency clause was declared carried.

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**SECOND READING OF SENATE BILL**

**SB 2106:** A BILL for an Act to amend and reenact section 27-20-48 of the North Dakota Century Code, relating to immunity for guardians ad litem in juvenile court proceedings.

**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 0 YEAS, 45 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

**NAYS:** Andrist; Bowman; Burckhard; Christmann; Cook; Dever; Dotzenrod; Erbele; Fischer; Flakoll; Freborg; Heckaman; Hogue; Holmberg; Kilzer; Klein; Krebsbach; Laffen; Larsen; Lee, G.; Lee, J.; Luick; Lyson; Marcellais; Mathern; Miller; Murphy; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Robinson; Schaible; Schneider; Sitte; Sorvaag; Stenehjem; Taylor; Triplett; Uglem; Wanzek; Wardner; Warner

**ABSENT AND NOT VOTING:** Berry; Grindberg

SB 2106 lost.

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**SECOND READING OF SENATE BILL**

**SB 2195:** A BILL for an Act to create and enact a new subsection to section 47-16-17.1 of the North Dakota Century Code, relating to remedies for termination of a lease due to domestic violence.

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

**YEAS:** Andrist; Bowman; Burckhard; Christmann; Cook; Dever; Dotzenrod; Erbele; Fischer; Flakoll; Freborg; Heckaman; Hogue; Holmberg; Kilzer; Klein; Krebsbach; Laffen; Larsen; Lee, G.; Lee, J.; Luick; Lyson; Marcellais; Mathern; Miller; Murphy; Nelson; Nodland; O'Connell; Oehlke; Olafson; Robinson; Schaible; Schneider; Sorvaag; Stenehjem; Taylor; Triplett; Uglem; Wanzek; Wardner; Warner

**NAYS:** Nething; Sitte

**ABSENT AND NOT VOTING:** Berry; Grindberg

SB 2195 passed.

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#### REQUEST

**SEN. NETHING REQUESTED** that the record show that he intended to vote "AYE" on SB 2195, which request was granted.

#### SECOND READING OF SENATE BILL

**SB 2199:** A BILL for an Act to create and enact a new subdivision to subsection 2 of section 12-60-24 and a new section to chapter 43-42 of the North Dakota Century Code, relating to criminal history record checks for individuals licensed by the state board of respiratory care.

#### 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; Bowman; Burckhard; Christmann; Cook; Dever; Dotzenrod; Erbele; Fischer; Flakoll; Freborg; Heckaman; Hogue; Holmberg; Kilzer; Klein; Krebsbach; Laffen; Larsen; Lee, G.; Lee, J.; Luick; Lyson; Marcellais; Mathern; Miller; Murphy; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Robinson; Schaible; Schneider; Sitte; Sorvaag; Stenehjem; Taylor; Triplett; Uglem; Wanzek; Wardner; Warner

**ABSENT AND NOT VOTING:** Berry; Grindberg

SB 2199 passed.

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#### SECOND READING OF SENATE BILL

**SB 2241:** A BILL for an Act to amend and reenact subsection 2 of section 12.1-23-05 of the North Dakota Century Code, relating to the grading of theft offenses for theft of a prescription drug 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 36 YEAS, 9 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bowman; Burckhard; Christmann; Cook; Dever; Dotzenrod; Erbele; Fischer; Flakoll; Freborg; Hogue; Holmberg; Kilzer; Klein; Krebsbach; Laffen; Larsen; Lee, G.; Lee, J.; Lyson; Marcellais; Miller; Murphy; Nelson; Nething; Nodland; Olafson; Robinson; Schaible; Schneider; Sitte; Sorvaag; Uglem; Wanzek; Wardner

**NAYS:** Heckaman; Luick; Mathern; O'Connell; Oehlke; Stenehjem; Taylor; Triplett; Warner

**ABSENT AND NOT VOTING:** Berry; Grindberg

SB 2241 passed.

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#### SECOND READING OF SENATE BILL

**SB 2249:** A BILL for an Act to amend and reenact sections 35-20-16, 35-34-04, and 41-09-73, subsection 2 of section 41-09-87, subsection 5 of section 57-34-10, subsection 4 of section 57-36-09.5, section 57-38-49, subsection 4 of section 57-39.2-13, subsection 4 of section 57-40.2-16, subsection 3 of section 57-40.3-07.1, subsection 4 of section 57-43.1-17.4, subsection 4 of section 57-43.2-16.3, subsection 4 of section 57-43.3-22, subsection 2 of section 57-51-11, and subsection 4 of section 57-63-10 of the North Dakota Century Code, relating to the contents of a child support lien filed with the secretary of state, the contents of a vessel lien for the collection of child support, the contents of a financing statement, the filing of a financing statement, a tax lien on a telecommunications carrier, a tax lien for the



collection of taxes on tobacco products, a tax lien for the collection of income taxes, a tax lien for the collection of sales tax, a tax lien for the collection of use tax, a tax lien for the collection of motor vehicle excise tax, a tax lien for the collection of motor vehicle fuel tax, a tax lien for the collection of special fuels and importer for use tax; and to declare 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; Bowman; Burckhard; Christmann; Cook; Dever; Dotzenrod; Erbele; Fischer; Flakoll; Freborg; Heckaman; Hogue; Holmberg; Kilzer; Klein; Krebsbach; Laffen; Larsen; Lee, G.; Lee, J.; Luick; Lyson; Marcellais; Mathern; Miller; Murphy; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Robinson; Schaible; Schneider; Sitte; Sorvaag; Stenehjerm; Taylor; Triplett; Uglem; Wanzek; Wardner; Warner

**ABSENT AND NOT VOTING:** Berry; Grindberg

SB 2249 passed.

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#### SECOND READING OF SENATE BILL

**SB 2257:** A BILL for an Act to create and enact a new section to chapter 5-01 of the North Dakota Century Code, relating to providing a location for underage drinking 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 NOT PASS, the roll was called and there were 11 YEAS, 34 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Cook; Dotzenrod; Flakoll; Heckaman; Lee, G.; Luick; Marcellais; Mathern; Murphy; Robinson

**NAYS:** Bowman; Burckhard; Christmann; Dever; Erbele; Fischer; Freborg; Hogue; Holmberg; Kilzer; Klein; Krebsbach; Laffen; Larsen; Lee, J.; Lyson; Miller; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Schaible; Schneider; Sitte; Sorvaag; Stenehjerm; Taylor; Triplett; Uglem; Wanzek; Wardner; Warner

**ABSENT AND NOT VOTING:** Berry; Grindberg

SB 2257 lost.

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#### SECOND READING OF SENATE BILL

**SB 2247:** A BILL for an Act to create and enact a new section to chapter 14-07.1 of the North Dakota Century Code, relating to a domestic violence fatality review commission.

#### 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; Bowman; Burckhard; Christmann; Cook; Dever; Dotzenrod; Erbele; Fischer; Flakoll; Freborg; Heckaman; Hogue; Holmberg; Kilzer; Klein; Krebsbach; Laffen; Larsen; Lee, G.; Lee, J.; Luick; Lyson; Marcellais; Mathern; Miller; Murphy; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Robinson; Schaible; Schneider; Sitte; Sorvaag; Stenehjerm; Taylor; Triplett; Uglem; Wanzek; Wardner; Warner

**ABSENT AND NOT VOTING:** Berry; Grindberg

SB 2247 passed.

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**SECOND READING OF SENATE BILL**

**SB 2268:** A BILL for an Act to provide for a regional autism spectrum disorder centers of achievement pilot program; to provide for a department of human services report to the legislative management; to provide for a legislative management study; and to provide an appropriation.

**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; Bowman; Burckhard; Christmann; Cook; Dever; Dotzenrod; Erbele; Fischer; Flakoll; Freborg; Heckaman; Hogue; Holmberg; Kilzer; Klein; Krebsbach; Laffen; Larsen; Lee, G.; Lee, J.; Luick; Lyson; Marcellais; Mathern; Miller; Murphy; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Robinson; Schaible; Schneider; Sitte; Sorvaag; Stenehjerm; Taylor; Triplett; Uglem; Wanzek; Wardner; Warner

**ABSENT AND NOT VOTING:** Berry; Grindberg

Engrossed SB 2268 passed.

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**SECOND READING OF SENATE CONCURRENT RESOLUTION**

**SCR 4016:** A concurrent resolution expressing support for the public awareness of multiple sclerosis; declaring the week of March 14-20, 2011, "MS Awareness Week"; and urging the Congress of the United States to join in the movement in creating a world free of multiple sclerosis.

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

SCR 4016 was declared adopted on a voice vote.

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**SECOND READING OF SENATE BILL**

**SB 2286:** A BILL for an Act to amend and reenact sections 53-01-02, 53-01-07, and 53-01-09 of the North Dakota Century Code, relating to the duties of the state combative sports commissioner.

**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 38 YEAS, 7 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bowman; Burckhard; Christmann; Dever; Dotzenrod; Erbele; Flakoll; Freborg; Heckaman; Hogue; Holmberg; Kilzer; Krebsbach; Laffen; Larsen; Lee, J.; Luick; Lyson; Marcellais; Mathern; Miller; Murphy; Nelson; Nething; Nodland; Oehlke; Olafson; Robinson; Schaible; Schneider; Sitte; Sorvaag; Taylor; Triplett; Uglem; Wanzek; Wardner

**NAYS:** Cook; Fischer; Klein; Lee, G.; O'Connell; Stenehjerm; Warner

**ABSENT AND NOT VOTING:** Berry; Grindberg

Engrossed SB 2286 passed.

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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 2010, SB 2125, SB 2169, SB 2213, SB 2251, SB 2256, SB 2259, SB 2276, SB 2318,

SB 2346, SCR 4001, SCR 4011.

**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 2253, SB 2280.

**MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)**

**MR. PRESIDENT:** The House has passed, and your favorable consideration is requested on: HB 1189, HB 1268, HB 1289, HB 1467.

**MOTION**

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

**MOTION**

**SEN. CHRISTMANN MOVED** that the Senate be on the Fourth, Fifth, and Ninth orders of business and at the conclusion of those orders, the Senate stand adjourned until 12:30 p.m., Thursday, February 17, 2011, which motion prevailed.

**REPORT OF STANDING COMMITTEE**

**SB 2008: Appropriations Committee (Sen. Holmberg, Chairman)** recommends **DO PASS** (12 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2008 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2021: Appropriations Committee (Sen. Holmberg, Chairman)** recommends **DO PASS** (11 YEAS, 1 NAYS, 1 ABSENT AND NOT VOTING). SB 2021 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2050: Finance and Taxation Committee (Sen. Cook, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2050 was placed on the Sixth order on the calendar.

Page 1, line 1, replace "section 40-58-20.2" with "a new subsection to section 40-58-20 "

Page 1, line 2, remove "establishment of a joint review board for approval of"

Page 1, line 2, after the semicolon insert "and"

Page 1, line 3, replace the first comma with "and"

Page 1, line 3, remove the second comma

Page 1, line 4, remove "and section 40-58-20.1"

Page 1, line 5, remove "; and to provide an effective date"

Page 2, line 2, remove "and has obtained approval of that plan from a joint review board under"

Page 2, line 3, remove "section 40-58-20.2"

Page 2, line 3, after "area" insert "and has filed that plan with the department of commerce division of community services"

Page 2, line 7, replace "increment financing" with "increments computed"

Page 2, line 8, replace "twenty" with "twenty-five"

Page 2, line 8, after "years" insert "without the original taxable values being reset by the governing body of the municipality so that the taxable values used as the original values are never more than twenty taxable years old"

Page 2, after line 8, insert:

"**SECTION 3.** A new subsection to section 48-50-20 of the North Dakota Century Code is created and enacted as follows:

The governing body of a municipality with an active tax increment financing district may at any time identify funds on hand that are in excess of the costs it determines necessary to complete the activities included in the last approved urban renewal plan for that district. The governing body may cause the identified surplus to be transferred to the county treasurer to be distributed to the state and all political subdivisions having power to tax property in the area, in amounts proportionate to the most recent five-year average of the property tax levy within the district."

Page 2, remove lines 9 through 31

Page 3, remove lines 1 through 31

Page 4, remove lines 1 through 12

Renumber accordingly

#### **REPORT OF STANDING COMMITTEE**

**SB 2059: Finance and Taxation Committee (Sen. Cook, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2059 was placed on the Sixth order on the calendar.

Page 1, line 3, after the semicolon insert "to provide an effective date;"

Page 2, line 20, after "zone" insert ", up to the amount awarded by the department."

Page 2, line 20, after "is" insert "calculated and"

Page 2, line 22, remove "A distribution to a zone, up to the amount awarded by the department, is based"

Page 2, replace lines 23 through 25 with:

"On or before February 29, 2012, and the last day of February of each subsequent year, the tax commissioner shall determine, based on the best information available, and certify to the state treasurer an amount for payment to a technology impact zone identified in subsection 5 equal to the sales and use tax revenue generated by the cities and counties in the zone during the last six months of the previous calendar year. The state treasurer shall pay the distribution amount to the technology impact zone on or before March 31, 2012, and March thirty-first of each subsequent year.

- b. On or before August 31, 2012, and August thirty-first of each subsequent year, the tax commissioner shall determine, based on the best information available, and certify to the state treasurer an amount for payment to a technology impact zone identified in subsection 5 equal to the sales and use tax revenue generated by the cities and counties in the zone during the first six months of the current calendar year. The state treasurer shall pay the distribution amount to the technology impact zone on or before September 30, 2012, and September thirtieth of each subsequent year."

Page 2, line 26, replace "b." with "c."

Page 2, remove lines 30 and 31

Page 3, remove lines 1 through 15

Page 3, line 16, after the first boldfaced period insert "**EFFECTIVE DATE -**"

Page 3, line 16, after "effective" insert "for taxable events beginning after June 30, 2011, and"

Page 3, line 16, replace "July 31" with "June 30"

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**SB 2160: Finance and Taxation Committee (Sen. Cook, Chairman)** recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2160 was placed on the Eleventh order on the calendar.

#### REPORT OF STANDING COMMITTEE

**SB 2310: Judiciary Committee (Sen. Nething, Chairman)** recommends **DO NOT PASS** (4 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2310 was placed on the Eleventh order on the calendar.

#### REPORT OF STANDING COMMITTEE

**SB 2319: Judiciary Committee (Sen. Nething, Chairman)** recommends **DO NOT PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2319 was placed on the Eleventh order on the calendar.

#### REPORT OF STANDING COMMITTEE

**SB 2329: Finance and Taxation Committee (Sen. Cook, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (4 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). SB 2329 was placed on the Sixth order on the calendar.

Page 1, line 8, remove "or operator"

Page 1, line 8, after "business" insert "or the owner of a new or expanding retail business location"

Page 1, line 10, replace "taxpayer" with "applicant"

Page 1, line 11, remove "must be made in credit grant rounds"

Page 1, replace lines 12 through 16 with "may be made on the basis of applications submitted and may be awarded until the credits available for the calendar year are fully utilized."

Page 1, line 17, replace "or operator" with "of the retail business or the owner of the retail business location"

Page 1, line 17, after "and" insert "the"

Page 1, line 18, after the first "business" insert "or retail business location"

Page 1, line 18, after the second "business" insert "or retail business location"

Page 2, line 1, replace "encouragement" with "the establishment"

Page 2, line 1, after "businesses" insert "and the expansion of existing retail businesses"

Page 2, line 8, after "expected" insert "additional"

Page 2, line 8, replace "as estimated" with "or the businesses that are expected to occupy the new or expanding retail location must be reviewed"

Page 2, line 10, remove "or operator"

Page 2, line 12, replace "percentage that" with "ratio of"

Page 2, line 12, replace "is of" with "to"

Page 2, line 12, after "investment" insert "from all sources"

Page 2, line 21, after "4." insert "To be eligible for a credit, an applicant must score at least seventy-five percent of points available under subsection 3 and the applicant may not be closing or reducing its business operations in one area of the state and relocating substantially the same business operations to another area.

5."

Page 2, line 21, replace "total" with "aggregate amount"

Page 2, line 22, replace "one" with "two"

Page 2, line 22, replace "two" with "five"

Page 2, line 22, remove "fifty"

Page 2, line 22, replace "grant round" with "calendar year"

Page 2, line 22, after the underscored period insert "The credit awarded to an applicant is limited to not more than forty percent of the initial or estimated investment in the business or the retail business location, which may be awarded:

- a. In a single installment;
  - b. In an amount equal to twenty percent per year for five years; or
  - c. In annual installments for a period not to exceed five years, in an amount to be determined by the department of commerce contingent on the applicant meeting the annual performance goals as set forth in the original grant application.
6. The department of commerce shall notify the tax commissioner of the credit amount awarded to each applicant.
7. For purposes of the determination of the credit, qualifying initial investments are material investments in the business, including the purchase of land, equipment, inventory, building materials, and payments for construction contracts and franchise fees. The applicant must notify the department of commerce of any material changes to, or withdrawal of, an application. If an approved application is withdrawn by the applicant before the credit being awarded, the credit amount allocated to the withdrawn application must be added back into the aggregate amount of credits that may be awarded during the calendar year. The department of commerce shall place conditions on the credit award including circumstances that will trigger a clawback and the amount of the credit that may be recouped if those circumstances occur. The department of commerce shall notify the tax commissioner of the amount of credit to be recouped.

Page 2, line 23, replace "5." with "8."

Page 2, line 23, remove "The credit awarded to an applicant is limited to not more than forty percent of the initial"

Page 2, line 24, remove "investment in the business."

Page 2, line 29, replace "6." with "9."

Page 2, line 29, replace "An" with "The owner of an"

Page 2, line 29, after "business" insert "or the owner of an expanding retail location"

Page 2, line 30, after "business" insert "or a new business location"

Page 3, line 3, after "business" insert "or of the businesses that are expected to occupy the expanding retail location"

Page 3, line 3, replace "fifty" with "twenty-five"

Page 3, line 3, replace "five" with "three"

Page 3, line 4, remove "Not more than twenty-five percent of the credits available in the credit grant"

Page 3, line 5, replace "round may be awarded to expanding existing businesses" with "If the expansion is of a retail location, the investment in the expansion must be an amount equal to or in excess of twenty-five percent of the current true and full value of the commercial portion of the existing structure"

Page 3, line 6, after "business" insert "or existing retail location"

Page 3, line 6, replace "twenty" with "forty"

Page 3, line 7, after the first "the" insert "initial or estimated"

Page 3, remove lines 8 through 10

Page 3, line 11, replace "under this section and used in any previous taxable year" with:

"10. Upon certification by the department of commerce that the credit or any portion of the credit is revoked, the amount certified"

Page 3, line 12, replace "paid" with "assessed"

Page 3, line 12, replace "subject to enforcement" with "collected"

Page 3, line 13, after "chapter" insert ", notwithstanding the time limitations in section 57-38-38"

Page 3, line 14, replace "8." with "11."

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**SB 2348: Natural Resources Committee (Sen. Lyson, Chairman)** recommends **DO NOT PASS** (5 YEAS, 1 NAYS, 1 ABSENT AND NOT VOTING). SB 2348 was placed on the Eleventh order on the calendar.

#### REPORT OF STANDING COMMITTEE

**SB 2349: Judiciary Committee (Sen. Nething, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2349 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 management study of election laws, campaign contribution and expenditure reporting requirements, and reporting of legislative travel and financial interests."

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

**SECTION 1. LEGISLATIVE MANAGEMENT STUDY - ELECTION LAWS, CAMPAIGN CONTRIBUTIONS AND EXPENDITURES, TRAVEL REPORTING, AND STATEMENTS OF INTERESTS.** During the 2011-12 interim, the legislative management shall consider studying election laws, campaign contribution and expenditure reporting requirements, and reporting of legislative travel and financial interests. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-third legislative assembly."

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**SB 2354: Appropriations Committee (Sen. Holmberg, Chairman)** recommends **DO PASS** (11 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). SB 2354 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2359: Judiciary Committee (Sen. Nething, Chairman)** recommends **DO NOT PASS** (5 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). SB 2359 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SCR 4005: Human Services Committee (Sen. J. Lee, Chairman)** recommends **DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SCR 4005 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SCR 4012: Human Services Committee (Sen. J. Lee, Chairman)** recommends **DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SCR 4012 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SCR 4014: Judiciary Committee (Sen. Nething, Chairman)** recommends **DO NOT PASS** (4 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SCR 4014 was placed on the Eleventh order on the calendar.

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

**William R. Horton, Secretary**