

## JOURNAL OF THE SENATE

## Sixty-fourth Legislative Assembly

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Bismarck, January 27, 2015

The Senate convened at 1:00 p.m., with President Pro Tempore Dever presiding.

The prayer was offered by Pastor Jake DeBoer, Trinity and Dawson Lutheran Churches, Steele and Dawson.

The roll was called and all members were present.

A quorum was declared by the President Pro Tempore.

## CORRECTION AND REVISION OF THE JOURNAL

**MR. PRESIDENT:** Your **Committee on Correction and Revision of the Journal (Sen. Poolman, Chairman)** has carefully examined the Journal of the Fourteenth and Fifteenth Days and recommends that it be corrected as follows and when so corrected, recommends that it be approved:

Page 167, replace line 15 with:

"Page 2, line 26, remove "a."

Page 177, replace line 7 with:

"Engrossed SB 2089, passed."

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

## CONSIDERATION OF AMENDMENTS

**SB 2032: SEN. SCHAIBLE (Energy and Natural Resources Committee) MOVED** that the amendments be adopted and then be **REREFERRED** to the **Appropriations Committee** with **DO PASS**, which motion prevailed on a voice vote.

SB 2032 was rereferred to the **Appropriations Committee**.

## CONSIDERATION OF AMENDMENTS

**SB 2058: SEN. HOGUE (Energy and Natural Resources Committee) MOVED** that the amendments be adopted and then be **REREFERRED** to the **Appropriations Committee** with **DO PASS**, which motion prevailed on a voice vote.

SB 2058 was rereferred to the **Appropriations Committee**.

## CONSIDERATION OF AMENDMENTS

**SB 2067: SEN. KLEIN (Industry, Business and Labor Committee) MOVED** that the amendments be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed on a voice vote.

## CONSIDERATION OF AMENDMENTS

**SB 2105: SEN. BURCKHARD (Industry, Business and Labor Committee) MOVED** that the amendments 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 2036:** A BILL for an Act to amend and reenact sections 57-39.2-04, 57-39.2-04.2, 57-40.2-04.2, 57-60-02, and 57-61-01.4 of the North Dakota Century Code, relating to the sales and use tax exemption for beneficiated coal and equipment for certain power plants, an exemption from the coal conversion facility privilege tax for beneficiated coal produced for use within a coal conversion facility, and the

severance and sales and use tax exemption for coal used in certain plants; 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 47 YEAS, 0 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Anderson; Armstrong; Axness; Bekkedahl; Bowman; Burckhard; Campbell; Carlisle; Casper; Cook; Davison; Dever; Dotzenrod; Erbele; Flakoll; Grabinger; Heckaman; Hogue; Holmberg; Kilzer; Klein; Krebsbach; Laffen; Larsen; Lee, G.; Lee, J.; Luick; Marcellais; Mathern; Miller; Murphy; Nelson; O'Connell; Oban; Oehlke; Poolman; Robinson; Rust; Schaible; Schneider; Sinner; Sorvaag; Triplett; Unruh; Wanzek; Wardner; Warner

SB 2036 passed.

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#### SECOND READING OF SENATE BILL

**SB 2120:** A BILL for an Act to amend and reenact subsection 1 of section 49-22-22 of the North Dakota Century Code, relating to energy conversion and transmission facility siting application fees.

#### 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, 6 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Anderson; Axness; Bekkedahl; Bowman; Burckhard; Campbell; Carlisle; Casper; Cook; Davison; Dever; Dotzenrod; Erbele; Flakoll; Grabinger; Heckaman; Hogue; Holmberg; Kilzer; Klein; Krebsbach; Laffen; Lee, G.; Lee, J.; Luick; Marcellais; Mathern; Murphy; Nelson; Oban; Poolman; Robinson; Rust; Schaible; Schneider; Sinner; Sorvaag; Triplett; Wanzek; Wardner; Warner

**NAYS:** Armstrong; Larsen; Miller; O'Connell; Oehlke; Unruh

Engrossed SB 2120 passed.

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#### SECOND READING OF SENATE BILL

**SB 2146:** A BILL for an Act to create and enact a new section to chapter 20.1-03 of the North Dakota Century Code, relating to the resident and nonresident muskrat trapping season.

#### ROLL CALL

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

**YEAS:** Anderson; Armstrong; Axness; Bekkedahl; Bowman; Burckhard; Campbell; Carlisle; Casper; Cook; Davison; Dever; Dotzenrod; Flakoll; Grabinger; Heckaman; Hogue; Holmberg; Kilzer; Klein; Krebsbach; Laffen; Larsen; Lee, G.; Lee, J.; Luick; Marcellais; Mathern; Miller; Murphy; Nelson; O'Connell; Oban; Oehlke; Poolman; Robinson; Rust; Schaible; Schneider; Sinner; Sorvaag; Triplett; Unruh; Wanzek; Wardner; Warner

**NAYS:** Erbele

Engrossed SB 2146 passed.

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**SECOND READING OF SENATE BILL**

**SB 2139:** A BILL for an Act to create and enact two new sections to chapter 39-24 of the North Dakota Century Code, relating to accidents and liability; to amend and reenact sections 39-05-02.2, 39-24-01, 39-24-02, 39-24-03, 39-24-03.1, 39-24-04, 39-24-05, 39-24-06, 39-24-07, 39-24-08, 39-24-09, 39-24-09.1, 39-24-10, and 39-24-11, and subsection 2 of section 57-40.3-01 of the North Dakota Century Code, relating to the licensing of snowmobiles; to provide a penalty; 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:** Anderson; Armstrong; Axness; Bekkedahl; Bowman; Burckhard; Campbell; Carlisle; Casper; Cook; Davison; Dever; Dotzenrod; Erbele; Flakoll; Grabinger; Heckaman; Hogue; Holmberg; Kilzer; Klein; Krebsbach; Laffen; Larsen; Lee, G.; Lee, J.; Luick; Marcellais; Mathern; Miller; Murphy; Nelson; O'Connell; Oban; Oehlke; Poolman; Robinson; Rust; Schaible; Schneider; Sinner; Sorvaag; Triplett; Unruh; Wanzek; Wardner; Warner

Engrossed SB 2139 passed.

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**SECOND READING OF SENATE BILL**

**SB 2164:** A BILL for an Act to amend and reenact subsection 2 of section 39-24-03 and subsection 3 of section 39-24-04 of the North Dakota Century Code, relating to snowmobile fees.

**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:** Anderson; Armstrong; Axness; Bekkedahl; Bowman; Burckhard; Campbell; Carlisle; Casper; Cook; Davison; Dever; Dotzenrod; Erbele; Flakoll; Grabinger; Heckaman; Hogue; Holmberg; Kilzer; Klein; Krebsbach; Laffen; Larsen; Lee, G.; Lee, J.; Luick; Marcellais; Mathern; Miller; Murphy; Nelson; O'Connell; Oban; Oehlke; Poolman; Robinson; Rust; Schaible; Schneider; Sinner; Sorvaag; Triplett; Unruh; Wanzek; Wardner; Warner

SB 2164 passed.

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**SECOND READING OF HOUSE BILL**

**HB 1087:** A BILL for an Act to create and enact a new section to chapter 15.1-21 of the North Dakota Century Code, relating to the demonstration of proficiency in civics as a condition of high school graduation.

**MOTION**

**SEN. TRIPLETT MOVED** that Engrossed HB 1087 be amended as follows.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact section 15.1-21-22 of the North Dakota Century Code, relating to concepts of civics.

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

**SECTION 1. AMENDMENT.** Section 15.1-21-22 of the North Dakota Century Code is amended and reenacted as follows:

**15.1-21-22. Required reading of historical documents.**

1. Before a student is deemed to have successfully completed either United States government or problems of democracy, as required by section 15.1-21-02.1, the student's school district shall ensure that the student has read the Declaration of Independence, the United States Constitution, and including the Bill of Rights, and been exposed to the governmental and historical concepts embodied in the civics test.
2. For purposes of this section, "civics test" means the one hundred questions that, as of January 1, 2015, officers of the United States citizenship and immigration services use as the basis for selecting the questions posed to applicants for naturalization, in order that the applicants can demonstrate a knowledge and understanding of the fundamentals of United States history and the principles and form of United States government, as required by 8 U.S.C. 1423."

Renumber accordingly

**REQUEST**

**SEN. SCHNEIDER REQUESTED** a verification vote on the motion to adopt the proposed amendments to Engrossed HB 1087, which request was granted.

The proposed amendments to Engrossed HB 1087 failed on a verification vote.

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

**YEAS:** Anderson; Armstrong; Axness; Bekkedahl; Bowman; Burckhard; Campbell; Carlisle; Casper; Cook; Davison; Dever; Dotzenrod; Erbele; Flakoll; Grabinger; Heckaman; Holmberg; Kilzer; Klein; Krebsbach; Laffen; Larsen; Lee, G.; Lee, J.; Luick; Marcellais; Miller; Murphy; Nelson; Oban; Oehlke; Poolman; Robinson; Rust; Schaible; Schneider; Sinner; Sorvaag; Unruh; Wanzek; Wardner; Warner

**NAYS:** Hogue; Mathern; O'Connell; Triplett

Engrossed HB 1087 passed.

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**SECOND READING OF SENATE BILL**

**SB 2093:** A BILL for an Act to amend and reenact subsection 3 of section 20.1-03-36.2 of the North Dakota Century Code, relating to guide and outfitter licenses; and to provide for application.

**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:** Anderson; Armstrong; Axness; Bekkedahl; Bowman; Burckhard; Campbell; Carlisle; Casper; Cook; Davison; Dever; Dotzenrod; Erbele; Flakoll; Grabinger; Heckaman; Hogue; Holmberg; Kilzer; Klein; Krebsbach; Laffen; Larsen; Lee, G.; Lee, J.; Luick; Marcellais; Mathern; Miller; Murphy; Nelson; O'Connell; Oban; Oehlke; Poolman; Robinson; Rust; Schaible; Schneider; Sinner; Sorvaag; Triplett; Unruh; Wanzek; Wardner; Warner

Engrossed SB 2093 passed.

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**SECOND READING OF SENATE BILL**

**SB 2190:** A BILL for an Act to amend and reenact section 38-08-04.5 of the North Dakota

Century Code, relating to the abandoned oil and gas well plugging and site reclamation fund.

#### ROLL CALL

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

**YEAS:** Anderson; Armstrong; Axness; Bekkedahl; Bowman; Burckhard; Campbell; Carlisle; Casper; Cook; Davison; Dever; Dotzenrod; Erbele; Flakoll; Grabinger; Heckaman; Hogue; Holmberg; Kilzer; Klein; Krebsbach; Laffen; Larsen; Lee, G.; Lee, J.; Luick; Marcellais; Mathern; Miller; Murphy; Nelson; O'Connell; Oban; Oehlke; Poolman; Robinson; Rust; Schaible; Schneider; Sinner; Sorvaag; Triplett; Unruh; Wanzek; Wardner; Warner

SB 2190 passed.

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#### SECOND READING OF SENATE BILL

**SB 2136:** A BILL for an Act to amend and reenact section 54-60.1-05 of the North Dakota Century Code, relating to business incentive accountability reports.

#### 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:** Anderson; Armstrong; Axness; Bekkedahl; Bowman; Burckhard; Campbell; Carlisle; Casper; Cook; Davison; Dever; Dotzenrod; Erbele; Flakoll; Grabinger; Heckaman; Hogue; Holmberg; Kilzer; Klein; Krebsbach; Laffen; Larsen; Lee, G.; Lee, J.; Luick; Marcellais; Mathern; Miller; Murphy; Nelson; O'Connell; Oban; Oehlke; Poolman; Robinson; Rust; Schaible; Schneider; Sinner; Sorvaag; Triplett; Unruh; Wanzek; Wardner; Warner

SB 2136 passed.

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#### MESSAGE TO THE HOUSE FROM THE SENATE (JANE SCHAIBLE, SECRETARY)

**MR. SPEAKER:** The Senate has passed, and your favorable consideration is requested on: SB 2029, SB 2057, SB 2084, SB 2172, SB 2183, SB 2186, SB 2195, SB 2208.

#### MESSAGE TO THE HOUSE FROM THE SENATE (JANE SCHAIBLE, SECRETARY)

**MR. SPEAKER:** The Senate has passed, and your favorable consideration is requested on: SB 2052, SB 2083, SB 2089, SB 2143.

#### MESSAGE TO THE HOUSE FROM THE SENATE (JANE SCHAIBLE, SECRETARY)

**MR. SPEAKER:** The Senate has passed, and your favorable consideration is requested on: SCR 4007.

#### MESSAGE TO THE HOUSE FROM THE SENATE (JANE SCHAIBLE, SECRETARY)

**MR. SPEAKER:** The Senate has passed, the emergency clause carried, and your favorable consideration is requested on: SB 2159.

#### MOTION

**SEN. KLEIN MOVED** that the Senate be on the Fourth, Fifth, Ninth, and Thirteenth orders of business and at the conclusion of those orders, the Senate stand adjourned until 1:00 p.m., Wednesday, January 28, 2015, which motion prevailed.

#### REPORT OF STANDING COMMITTEE

**SB 2047: Human Services Committee (Sen. J. Lee, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (4 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2047 was placed on the Sixth order on the calendar.

Page 1, line 1, replace "subsection 8 of section 25-03.2-01" with "sections 25-03.2-01, 25-03.2-03, 25-03.2-07, and 25-03.2-10"

Page 1, line 2, replace "the definition of a qualified mental health professional" with "psychiatric residential treatment facilities for children and rulemaking authority of the department of human services"

Page 1, remove lines 4 through 24

Page 2, replace lines 1 through 3 with:

**"SECTION 1. AMENDMENT.** Section 25-03.2-01 of the North Dakota Century Code is amended and reenacted as follows:

**25-03.2-01. Definitions.**

In this chapter, unless the context otherwise requires:

1. "Child" or "children" means a person or persons under the age of twenty-one.
2. "Clinical supervision" means the oversight responsibility for individual treatment plans and individual service delivery, ~~provided by qualified mental health professionals.~~
3. "Department" means the department of human services.
4. "Diagnostic assessment" means a written summary of the history, diagnosis, and individual treatment needs of a mentally ill person using diagnostic, interview, and other relevant assessment techniques ~~provided by a mental health professional.~~
5. "Individual treatment plan" means a written plan of intervention, treatment, and services for a mentally ill person that is developed under the clinical supervision of a mental health professional on the basis of a diagnostic assessment.
6. "Mentally ill person" has the same meaning provided for in section 25-03.1-02.
7. "Psychiatric residential treatment facility for children" means a facility or a distinct part of a facility that provides to children a total, twenty-four hour, therapeutic environment integrating group living, educational services, and a clinical program based upon a comprehensive, interdisciplinary clinical assessment, and an individualized treatment plan that meets the needs of the child and family. The services are available to children in need of and able to respond to active psychotherapeutic intervention and who cannot be effectively treated in their own family, in another home, or in a less restrictive setting. The facility must meet the requirements of a psychiatric residential treatment facility as set out in title 42, Code of Federal Regulations, part 483.352.
8. ~~"Qualified mental health professional" means a licensed physician who is a psychiatrist, a licensed clinical psychologist who is qualified for listing on the national register of health service providers in psychology, a licensed certified social worker who is a board certified diplomate in clinical social work, or a nurse who holds advanced licensure in psychiatric nursing.~~
9. "Residential treatment" means a twenty-four hour a day program under the clinical supervision of a mental health professional, in a community residential setting other than an acute care hospital, for the active treatment of mentally ill persons.

**SECTION 2. AMENDMENT.** Section 25-03.2-03 of the North Dakota Century Code is amended and reenacted as follows:

**25-03.2-03. Requirements for license.**

The department shall issue a license for the operation of a psychiatric residential treatment facility for children upon a showing that:

1. The premises to be used are in fit, safe, and sanitary condition and properly equipped to provide good care and treatment;
2. The program director of the facility holds, at a minimum, a master's degree in social work, psychology, or in a related field with at least two years of professional experience in the treatment of children suffering from mental illnesses or emotional disturbances. The executive director of the facility must have, at a minimum, a bachelor's degree in a behavioral science or a bachelor's degree in any field and two years of experience in administration;
3. The staff employed by the facility is supervised by the program director and qualified by training and experience to provide services to children suffering from mental illnesses or emotional disturbances. The facility annually must provide training to staff which is relevant to the needs of the client population;
4. The health, safety, and well-being of the children cared for and treated in the facility will be properly safeguarded;
5. There are sufficient treatment, educational, recreational and leisure, and physical facilities and services available to the children in the facility;
6. The facility will provide for a medical and psychological examination of each child within seventy-two hours of admission and thereafter as needed by the child;
7. An interdisciplinary team ~~consisting of at least one qualified mental health professional~~ will review each individual treatment plan at least monthly and update or amend the plan to meet the needs of the child;
8. The facility develops postdischarge plans and coordinates facility services and related community services with partial discharge plans with each child's family, school, and community upon discharge to ensure continuity of care; and
9. The facility is in compliance with requirements for psychiatric residential treatment facilities under 42 U.S.C. 1396d [Pub. L. 89-97; 79 Stat. 351] and title 42, Code of Federal Regulations, part 441, and with this chapter and rules adopted under this chapter.

**SECTION 3. AMENDMENT.** Section 25-03.2-07 of the North Dakota Century Code is amended and reenacted as follows:

**25-03.2-07. Method of providing service.**

A psychiatric residential treatment facility for children shall provide for the development of an individual treatment plan, based upon a comprehensive interdisciplinary diagnostic assessment, which includes the role of the family, identifies the goals and objectives of the therapeutic activities and treatment, provides a schedule for accomplishing the therapeutic activities and treatment goals and objectives, and identifies the individuals responsible for providing services, consistent with the individual treatment plan, to children. Clinical supervision of the individual treatment plan must be accomplished ~~by full-time or part-time employment of or contracts with qualified mental health professionals as set forth by the department in rules.~~ Clinical supervision must be documented ~~by the qualified mental~~

~~health professionals co-signing~~ individual treatment plans and by entries in the child's record regarding supervisory activity.

**SECTION 4. AMENDMENT.** Section 25-03.2-10 of the North Dakota Century Code is amended and reenacted as follows:

**5-03.2-10. Department may adopt rules.**

The department may adopt rules for the conduct of psychiatric residential treatment facilities for children and shall adopt rules defining which professionals may provide clinical supervision and review, and may develop, update, and sign an individual treatment plan within a psychiatric residential treatment facility for children."

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**SB 2156: Judiciary Committee (Sen. Hogue, Chairman)** recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2156 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2182: Judiciary Committee (Sen. Hogue, Chairman)** recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2182 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2200: Judiciary Committee (Sen. Hogue, Chairman)** recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2200 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2204: Judiciary Committee (Sen. Hogue, Chairman)** recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2204 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2229: Education Committee (Sen. Flakoll, Chairman)** recommends **DO PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2229 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2231: Human Services Committee (Sen. J. Lee, Chairman)** recommends **DO PASS** (5 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). SB 2231 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2274: Judiciary Committee (Sen. Hogue, Chairman)** recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2274 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2278: Industry, Business and Labor Committee (Sen. Klein, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2278 was placed on the Sixth order on the calendar.

Page 1, line 3, remove "and"

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

Page 4, line 2, overstrike "All" and insert immediately thereafter "Twenty-five percent of all"

Page 4, line 2, overstrike "by the registrar" and insert immediately thereafter "in the secretary of state's general services operating fund to pay the cost to administer this chapter and the balance of the moneys collected must be deposited"

Page 6, after line 23, insert:

**"SECTION 7. EMERGENCY.** Section 2 of this Act is declared to be an emergency measure."

Renumber accordingly

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

**Jane Schaible, Secretary**

