

JOURNAL OF THE SENATE

Sixty-first Legislative Assembly

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Bismarck, February 3, 2009

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

The prayer was offered by Sister Anna Rose Ruhland, St. Vincent's Care Center, Medcenter One, Bismarck.

The roll was called and all members were present except Senator Marcellais.

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 Seventh and Nineteenth Days and recommends that it be corrected as follows and when so corrected, recommends that it be approved:

Page 82, line 48, replace "**Industry, Business and Labor**" with "**Judiciary**"

Page 229, line 3, after "**2189**" insert ", **as engrossed**"

Page 229, line 5, after the period insert "Engrossed"

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

CONSIDERATION OF AMENDMENTS

SB 2223: SEN. FIEBIGER (Transportation Committee) MOVED that the amendments on SJ page 249 be adopted and then be **REREFERRED** to the **Appropriations Committee** with **DO PASS**, which motion prevailed.

CONSIDERATION OF AMENDMENTS

SB 2335: SEN. DOTZENROD (Political Subdivisions Committee) MOVED that the amendments on SJ page 249 be adopted and then be **REREFERRED** to the **Appropriations Committee** with **DO PASS**, which motion prevailed.

CONSIDERATION OF AMENDMENTS

SB 2095: SEN. HOGUE (Natural Resources Committee) MOVED that the amendments on SJ pages 247-248 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

CONSIDERATION OF AMENDMENTS

SB 2139: SEN. HOGUE (Natural Resources Committee) MOVED that the amendments on SJ page 248 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

SECOND READING OF SENATE BILL

SB 2250: A BILL for an Act to create and enact a new section to chapter 35-27 of the North Dakota Century Code, relating to attorney's fees under construction liens; to amend and reenact sections 11-18-14, 28-01-17, 28-05-09, 35-15-06, 35-21-01, 35-27-02, 35-27-04, 35-27-13, 35-27-14, 35-27-16, 35-27-18, 35-27-22, 35-27-24, 35-27-25, and 47-18-04 of the North Dakota Century Code, relating to mechanic's and construction liens; and to repeal sections 35-27-05, 35-27-11, 35-27-12, and 35-27-26 of the North Dakota Century Code, relating to outdated mechanic's lien provisions.

ROLL CALL

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

YEAS: Anderson; Andrist; Bakke; Behm; Bowman; Christmann; Cook; Dever; Dotzenrod; Erbele; Fiebigler; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern;

Miller; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Schneider; Seymour; Stenehjem; Taylor; Triplett; Wanzek; Wardner; Warner

ABSENT AND NOT VOTING: Marcellais

Engrossed SB 2250 passed and the title was agreed to.

SECOND READING OF SENATE BILL

SB 2251: A BILL for an Act to amend and reenact section 61-16-08 of the North Dakota Century Code, relating to compensation for water resource district managers.

ROLL CALL

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

YEAS: Anderson; Andrist; Bakke; Behm; Bowman; Christmann; Cook; Dever; Dotzenrod; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Miller; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Schneider; Seymour; Stenehjem; Taylor; Triplett; Wanzek; Wardner; Warner

ABSENT AND NOT VOTING: Marcellais

SB 2251 passed and the title was agreed to.

SECOND READING OF SENATE BILL

SB 2254: A BILL for an Act to amend and reenact section 61-16.1-40.1 of the North Dakota Century Code, relating to maintenance of federal water management projects.

ROLL CALL

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

YEAS: Anderson; Andrist; Bakke; Behm; Bowman; Christmann; Cook; Dever; Dotzenrod; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Miller; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Schneider; Seymour; Stenehjem; Taylor; Triplett; Wanzek; Wardner; Warner

ABSENT AND NOT VOTING: Marcellais

SB 2254 passed and the title was agreed to.

SECOND READING OF SENATE BILL

SB 2256: A BILL for an Act to amend and reenact section 32-12.2-13 of the North Dakota Century Code, relating to contracts between the state and a political subdivision.

ROLL CALL

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

YEAS: Anderson; Andrist; Bakke; Behm; Bowman; Christmann; Cook; Dever; Dotzenrod; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Miller; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Schneider; Seymour; Stenehjem; Taylor; Triplett; Wanzek; Wardner; Warner

ABSENT AND NOT VOTING: Marcellais

SB 2256 passed and the title was agreed to.

SECOND READING OF SENATE BILL

SB 2261: A BILL for an Act to amend and reenact section 26.1-40-17 of the North Dakota Century Code, relating to establishment of primary and excess automobile liability coverages for rental vehicles.

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

YEAS: Anderson; Andrist; Bakke; Behm; Bowman; Christmann; Cook; Dever; Dotzenrod; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Miller; Nelson; Nething; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Schneider; Seymour; Stenehjem; Taylor; Triplett; Wanzek; Wardner; Warner

NAYS: Nodland

ABSENT AND NOT VOTING: Marcellais

SB 2261 passed and the title was agreed to.

SECOND READING OF SENATE BILL

SB 2295: A BILL for an Act to amend and reenact section 54-10-14 of the North Dakota Century Code, relating to exceptions for small cities from political subdivision audit requirements.

ROLL CALL

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

YEAS: Anderson; Andrist; Bakke; Behm; Bowman; Christmann; Cook; Dever; Dotzenrod; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Miller; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Schneider; Seymour; Stenehjem; Taylor; Triplett; Wanzek; Wardner; Warner

ABSENT AND NOT VOTING: Marcellais

SB 2295 passed and the title was agreed to.

SECOND READING OF SENATE BILL

SB 2309: A BILL for an Act to provide for a study of linking and improving public sites along the Sibley and Sully historic trails for historical education, heritage tourism, and access for public hunting.

ROLL CALL

The question being on the final passage of the bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 42 YEAS, 4 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Anderson; Andrist; Bakke; Behm; Bowman; Cook; Dotzenrod; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Miller; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Schneider; Seymour; Taylor; Triplett; Wanzek; Wardner; Warner

NAYS: Christmann; Dever; Erbele; Stenehjem

ABSENT AND NOT VOTING: Marcellais

SB 2309 passed and the title was agreed to.

SECOND READING OF SENATE BILL

SB 2339: A BILL for an Act to amend and reenact subsection 5 of section 39-04-19 of the North Dakota Century Code, relating to registration fees for farm trucks; and to provide for application.

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

YEAS: Nelson; O'Connell; Warner

NAYS: Anderson; Andrist; Bakke; Behm; Bowman; Christmann; Cook; Dever; Dotzenrod; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Miller; Nething; Nodland; Oehlke; Olafson; Pomeroy; Potter; Robinson; Schneider; Seymour; Stenehjem; Taylor; Triplett; Wanzek; Wardner

ABSENT AND NOT VOTING: Marcellais

SB 2339 lost.

SECOND READING OF SENATE BILL

SB 2352: A BILL for an Act to amend and reenact section 54-21.2-03 of the North Dakota Century Code, relating to energy conservation standards for new buildings.

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

YEAS: Anderson; Andrist; Bakke; Behm; Christmann; Cook; Dever; Dotzenrod; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Miller; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Schneider; Seymour; Stenehjem; Taylor; Triplett; Wanzek; Wardner; Warner

NAYS: Bowman

ABSENT AND NOT VOTING: Marcellais

SB 2352 passed and the title was agreed to.

SECOND READING OF SENATE BILL

SB 2354: A BILL for an Act to amend and reenact section 54-21.3-03 of the North Dakota Century Code, relating to the state and local building 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 46 YEAS, 0 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Anderson; Andrist; Bakke; Behm; Bowman; Christmann; Cook; Dever; Dotzenrod; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Miller; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Schneider; Seymour; Stenehjem; Taylor; Triplett; Wanzek; Wardner; Warner

ABSENT AND NOT VOTING: Marcellais

SB 2354 passed and the title was agreed to.

MOTION

SEN. CHRISTMANN MOVED that SB 2054, which is on the Eleventh order, be laid over one legislative day, which motion prevailed.

SECOND READING OF SENATE BILL

SB 2068: A BILL for an Act to amend and reenact section 20.1-03-35 of the North Dakota Century Code, relating to the use of social security numbers or other alternate unique identification numbers on game and fish licenses and permits; to provide an agency directive; to provide an appropriation; and to provide a contingent 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 NOT PASS, the roll was called and there were 13 YEAS, 33 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Anderson; Bakke; Behm; Cook; Fiebiger; Lee, J.; Mathern; Nelson; O'Connell; Potter; Stenehjenn; Taylor; Triplett

NAYS: Andrist; Bowman; Christmann; Dever; Dotzenrod; Erbele; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lindaas; Lyson; Miller; Nething; Nodland; Oehlke; Olafson; Pomeroy; Robinson; Schneider; Seymour; Wanzek; Wardner; Warner

ABSENT AND NOT VOTING: Marcellais

Engrossed SB 2068 lost.

SECOND READING OF SENATE BILL

SB 2069: A BILL for an Act to amend and reenact subsection 1 of section 27-05.2-03 of the North Dakota Century Code, relating to fees collected by the clerk of district court for deposit in the civil legal services 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 42 YEAS, 4 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Anderson; Andrist; Bakke; Behm; Bowman; Dever; Dotzenrod; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Horne; Kilzer; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Miller; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Schneider; Seymour; Taylor; Triplett; Wanzek; Wardner; Warner

NAYS: Christmann; Cook; Klein; Stenehjenn

ABSENT AND NOT VOTING: Marcellais

SB 2069 passed and the title was agreed to.

SECOND READING OF SENATE BILL

SB 2141: A BILL for an Act to create and enact chapter 38-11.2 of the North Dakota Century Code, relating to damages to land surface caused by subsurface mineral extraction and related exploration.

ROLL CALL

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

YEAS: Anderson; Andrist; Bakke; Behm; Bowman; Christmann; Cook; Dever; Dotzenrod; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Miller; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Schneider; Seymour; Stenehjenn; Taylor; Triplett; Wanzek; Wardner; Warner

ABSENT AND NOT VOTING: Marcellais

Engrossed SB 2141 passed and the title was agreed to.

SECOND READING OF SENATE BILL

SB 2189: 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 game and fish license fees for residents under eighteen years of age; to amend and reenact subsections 1 and 3 of section 20.1-03-12 and section 20.1-03-12.1 of the North Dakota Century Code, relating to game and fish license fees; 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 9 YEAS, 37 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Behm; Dotzenrod; Hogue; Krauter; Krebsbach; Miller; Nodland; Schneider; Triplett

NAYS: Anderson; Andrist; Bakke; Bowman; Christmann; Cook; Dever; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Holmberg; Horne; Kilzer; Klein; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Nelson; Nething; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Seymour; Stenehjem; Taylor; Wanzek; Wardner; Warner

ABSENT AND NOT VOTING: Marcellais

Engrossed SB 2189 lost.

SECOND READING OF SENATE BILL

SB 2279: A BILL for an Act to amend and reenact subsection 5 of section 39-08-13 of the North Dakota Century Code, relating to the parties from whom a motor vehicle accident investigating officer's opinion may be obtained.

ROLL CALL

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

YEAS: Anderson; Andrist; Bakke; Behm; Bowman; Christmann; Cook; Dever; Dotzenrod; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Miller; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Schneider; Seymour; Stenehjem; Taylor; Triplett; Wanzek; Wardner; Warner

ABSENT AND NOT VOTING: Marcellais

SB 2279 passed and the title was agreed to.

SECOND READING OF SENATE BILL

SB 2292: A BILL for an Act to amend and reenact section 61-04-03 and subsections 1 and 2 of section 61-04-05 of the North Dakota Century Code, relating to water permit applications and notices.

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 1 YEAS, 45 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Mathern

NAYS: Anderson; Andrist; Bakke; Behm; Bowman; Christmann; Cook; Dever; Dotzenrod; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Miller; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Schneider; Seymour; Stenehjem; Taylor; Triplett; Wanzek; Wardner; Warner

ABSENT AND NOT VOTING: Marcellais

SB 2292 lost.

SECOND READING OF SENATE BILL

SB 2299: A BILL for an Act to create and enact a new section to chapter 43-01 of the North Dakota Century Code, relating to utility easement abstracts.

ROLL CALL

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

YEAS: Anderson; Andrist; Bakke; Behm; Bowman; Christmann; Cook; Dever; Dotzenrod; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Miller; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Schneider; Seymour; Stenehjem; Taylor; Triplett; Wanzek; Wardner; Warner

ABSENT AND NOT VOTING: Marcellais

Engrossed SB 2299 passed and the title was agreed to.

SECOND READING OF SENATE BILL

SB 2312: A BILL for an Act to amend and reenact section 54-23.3-06 of the North Dakota Century Code, relating to salaries of employees of the department of corrections and rehabilitation.

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, 41 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Krauter; Nething; O'Connell; Potter; Wanzek

NAYS: Anderson; Andrist; Bakke; Behm; Bowman; Christmann; Cook; Dever; Dotzenrod; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Horne; Kilzer; Klein; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Miller; Nelson; Nodland; Oehlke; Olafson; Pomeroy; Robinson; Schneider; Seymour; Stenehjem; Taylor; Triplett; Wardner; Warner

ABSENT AND NOT VOTING: Marcellais

SB 2312 lost.

SECOND READING OF SENATE BILL

SB 2313: A BILL for an Act to amend and reenact section 39-04-10.4 of the North Dakota Century Code, relating to military identification numbers on antique military vehicles.

ROLL CALL

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

YEAS: Anderson; Andrist; Bakke; Behm; Bowman; Christmann; Cook; Dever; Dotzenrod; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Miller; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Schneider; Seymour; Stenehjem; Taylor; Triplett; Wanzek; Wardner; Warner

ABSENT AND NOT VOTING: Marcellais

SB 2313 passed and the title was agreed to.

SECOND READING OF SENATE BILL

SB 2349: A BILL for an Act to amend and reenact section 39-10.1-05 of the North Dakota Century Code, relating to the operation of bicycles.

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

YEAS: Anderson; Andrist; Bakke; Bowman; Christmann; Cook; Dever; Dotzenrod; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Miller; Nelson; Nothing; Nodland; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Schneider; Seymour; Stenehjem; Taylor; Triplett; Wanzek; Wardner; Warner

NAYS: Behm

ABSENT AND NOT VOTING: Marcellais

SB 2349 passed and the title was agreed to.

MESSAGE TO THE HOUSE FROM THE SENATE (FRAN A. GRONBERG, SECRETARY)

MR. SPEAKER: The Senate has passed and your favorable consideration is requested on: SB 2032, SB 2070, SB 2074, SB 2115, SB 2174, SB 2203, SB 2211.

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 1165, HB 1202, HB 1232, HB 1252, HB 1277.

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: HCR 3027.

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, Ninth, and Thirteenth orders of business and at the conclusion of those orders, the Senate stand adjourned until 1:00 p.m., Wednesday, February 4, 2009, which motion prevailed.

REPORT OF STANDING COMMITTEE

SB 2097: Human Services Committee (Sen. J. Lee, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2097 was placed on the Sixth order on the calendar.

Page 1, line 1, replace "subsections 1 and" with "subsection"

Page 1, line 2, replace "person responsible" with "sexually abused child"

Page 1, line 3, remove "for a child's welfare" and after the first "and" insert "to"

Page 1, line 5, replace "Subsections 1 and" with "Subsection"

Page 1, line 6, replace "are" with "is"

Page 1, remove lines 7 through 11

Page 2, line 10, remove "being requested"

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2123: 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 2123 was placed on the Sixth order on the calendar.

Page 1, line 17, replace the underscored semicolon with an underscored period

Page 1, line 18, remove "Vendors or grantees and their employees under contract or agreement with"

Page 1, remove lines 19 and 20

Page 1, line 21, remove "c."

Page 1, line 23, replace the underscored semicolon with an underscored period

Page 2, line 1, replace "d." with "c."

Page 2, line 2, replace the underscored semicolon with an underscored period

Page 2, line 3, replace "e." with "d."

Page 2, line 9, replace "f." with "e." and replace "Licenses" with "Applicants for licenses"

Re-number accordingly

REPORT OF STANDING COMMITTEE

SB 2151: Transportation Committee (Sen. G. Lee, Chairman) recommends **DO NOT PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2151 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2184: Finance and Taxation Committee (Sen. Cook, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (5 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2184 was placed on the Sixth order on the calendar.

Page 1, line 10, replace "total cost of a motor vehicle to a purchaser" with "amount paid by the purchaser to the seller at the time of purchase"

Re-number accordingly

REPORT OF STANDING COMMITTEE

SB 2196: Judiciary Committee (Sen. Nething, Chairman) recommends **DO PASS** (4 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2196 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2208, as engrossed: Appropriations Committee (Sen. Holmberg, Chairman) recommends **DO PASS** (12 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). Engrossed SB 2208 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2209: 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 2209 was placed on the Sixth order on the calendar.

Page 1, line 17, replace "A" with "AA"

Page 1, line 18, replace "B" with "A"

Page 1, after line 22, insert:

"4. In addition to any sentence or fine imposed for a conviction of an offense under this chapter, the court shall order the person convicted to make restitution to the victim of the crime."

Re-number accordingly

REPORT OF STANDING COMMITTEE

SB 2227: Appropriations Committee (Sen. Holmberg, Chairman) recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2227 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2232: 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 2232 was placed on the Sixth order on the calendar.

Page 3, line 10, replace the first "the" with "an", after "attorney" insert "licensed to practice law in this state", and remove ", or an agent of"

Page 3, line 11, remove "either."

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2248: Agriculture Committee (Sen. Flakoll, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2248 was placed on the Sixth order on the calendar.

Page 1, line 5, replace "4-35-28" with "4-35-29"

Page 1, line 6, replace "the disposition of" with "prior liability"

Page 1, line 7, remove "funds"

Page 4, line 15, remove the overstrike over "~~use~~"

Page 7, line 7, after the period insert "When requested by the agriculture commissioner, a commercial applicator immediately shall furnish proof of compliance with this section. If the applicator is unable to furnish the required proof, the commissioner may stop a pesticide application and not allow resumption until the applicator furnishes proof of compliance."

Page 7, line 9, overstrike "person" and insert immediately thereafter "commercial applicator"

Page 9, line 27, overstrike the first comma and insert immediately thereafter "or" and overstrike ", or supervise the use of"

Page 11, line 29, overstrike "economic poison" and insert immediately thereafter "pesticide"

Page 12, line 26, after the first boldfaced period insert "**Certification requirements -**"

Page 15, line 30, replace "repacking" with "repackaging"

Page 16, line 24, replace "4-35-28" with "4-35-29"

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2280: Human Services Committee (Sen. J. Lee, Chairman) recommends **DO NOT PASS** (4 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2280 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2287: Human Services Committee (Sen. J. Lee, Chairman) recommends **DO NOT PASS** (5 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). SB 2287 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2291: Agriculture Committee (Sen. Flakoll, Chairman) recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2291 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2301: Political Subdivisions Committee (Sen. Andrist, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2301 was placed on the Sixth order on the calendar.

Page 4, line 5, replace "tax commissioner" with "state treasurer"

Page 4, line 10, replace "tax" with "state treasurer"

Page 4, line 11, remove "commissioner"

Page 4, line 13, remove "by the state treasurer" and replace "tax" with "state treasurer"

Page 4, line 14, remove "commissioner"

Page 4, line 20, replace "tax commissioner" with "state treasurer"

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2321: Agriculture Committee (Sen. Flakoll, Chairman) recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2321 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2347: Finance and Taxation Committee (Sen. Cook, Chairman) recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2347 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2350: Agriculture Committee (Sen. Flakoll, 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 2350 was placed on the Sixth order on the calendar.

Page 1, line 1, after the first semicolon insert "to amend and reenact section 4-24-09 of the North Dakota Century Code, relating to the agricultural commodity assessments funds;"

Page 1, line 4, after "in" insert "sections 1 through 13 of"

Page 1, line 6, replace "an" with "and"

Page 1, line 8, after "use" insert "in"

Page 2, line 11, after "to" insert "sections 1 through 13 of" and replace "chapter" with "Act"

Page 2, line 14, after "out" insert "sections 1 through 13 of" and replace "chapter" with "Act"

Page 2, line 15, after "under" insert "sections 1 through 13 of" and replace "chapter" with "Act"

Page 2, line 17, after "administer" insert "sections 1 through 13 of" and replace "chapter" with "Act"

Page 2, line 20, after "under" insert "sections 1 through 13 of"

Page 2, line 21, replace "chapter" with "Act"

Page 3, line 11, replace the first "the" with "this"

Page 3, line 16, after "with" insert "sections 1 through 13 of" and replace "chapter" with "Act"

Page 3, line 26, after "to" insert "sections 1 through 13 of"

Page 3, line 29, after "under" insert "sections 1 through 13 of"

Page 3, line 30, after "out" insert "sections 1 through 13 of"

Page 4, line 1, after "violating" insert "sections 1 through 13 of"

Page 4, after line 2, insert:

"SECTION 14. AMENDMENT. Section 4-24-09 of the North Dakota Century Code is amended and reenacted as follows:

4-24-09. Agricultural commodity assessments funds - Investment income allocation. The state treasurer, notwithstanding any other provision of law to the contrary, shall invest in accordance with section 21-10-07 all available moneys in the spud fund, oilseed fund, dry bean fund, dry pea and lentil fund, barley fund, soybean fund, corn fund, honey fund, turkey fund, milk stabilization fund, dairy promotion commission fund, state wheat commission fund, ethanol fund, and the beef commission fund. The investment of moneys must be made in cooperation with the governing body of the respective agricultural commodity entity. The state treasurer, by rule, shall establish, in cooperation with the agricultural commodity organizations, guidelines to be followed regarding the investment of moneys in each fund. The state treasurer shall credit twenty percent of the investment income derived from each fund to the general fund in the state treasury as payment for accounting, printing, data processing, legal, and other services when provided without cost by the state to the agricultural commodity entity. The state treasurer shall credit eighty percent of the investment income derived from each fund to the respective fund."

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2370: 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 2370 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide for a legislative council study of the feasibility and desirability of transferring from the county to the state the responsibility for the cost of expert examinations and the cost and responsibility for providing legal counsel in mental health commitment cases.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE COUNCIL STUDY - MENTAL HEALTH COMMITMENT EXAMINATION AND LEGAL COUNSEL COSTS. During the 2009-10 interim, the legislative council shall consider studying the feasibility and desirability of transferring from the county to the state the responsibility for the cost of expert examinations and the cost and responsibility for providing legal counsel in mental health commitment cases. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-second legislative assembly."

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2416: 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 2416 was placed on the Sixth order on the calendar.

Page 1, line 13, after "Wine" insert ", including sparkling wine,"

Renumber accordingly

REPORT OF STANDING COMMITTEE

SCR 4009: 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). SCR 4009 was placed on the Sixth order on the calendar.

Page 1, line 1, remove "the impact in this state of a"

Page 1, line 2, remove "significant increase in the elderly population and"

Page 1, line 3, after "population" insert ", including veterans,"

Page 1, line 4, remove "guardianship and" and after "services" insert "and methods for the timely and effective delivery of guardianship services"

Page 1, replace lines 5 through 10 with:

WHEREAS, during the 2003-04 interim, a study of guardianship services by the interim Criminal Justice Committee, with the assistance of the North Dakota Guardianship Task Force, identified important deficiencies in the funding and effective delivery of guardianship services; and

WHEREAS, legislation recommended by the interim Criminal Justice Committee to address the deficiencies was not enacted and methods for the effective delivery of guardianship services generally, and public guardianship services in particular, remain uncertain, inconsistent, and lacking in sufficient funding; and"

Page 1, line 11, after "a" insert "critically important"

Page 1, after line 15 insert:

WHEREAS, the Administrative Committee on Veterans' Affairs sees a need to study issues of public administrator services and methods for the timely and effective delivery of guardianship services as it relates to the aging veteran population of this state; and"

Page 1, line 21, remove "the impact in this state of a significant increase in the"

Page 1, line 22, remove "elderly population and"

Page 1, line 23, after "population" insert ", including veterans,"

Page 1, line 24, remove "guardianship and" and after "services" insert "and methods for the timely and effective delivery of guardianship services"

Renumber accordingly

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

Fran A. Gronberg, Secretary

