

JOURNAL OF THE SENATE

Sixtieth Legislative Assembly

* * * * *

Bismarck, January 8, 2007

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

The prayer was offered by Pastor Rich Wyatt, Living Hope Nazarene Church, Bismarck.

The roll was called and all members were present.

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 First Day and recommends that it be corrected as follows and when so corrected, recommends that it be approved:

Page 15, line 48, replace "**Agriculture**" with "**Appropriations**"

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

SECOND READING OF SENATE BILL

SB 2054: A BILL for an Act to amend and reenact section 54-10-01 of the North Dakota Century Code, relating to powers of the state auditor.

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

YEAS: Horne; Pomeroy

NAYS: Anderson; Andrist; Bakke; Behm; Bowman; Christmann; Cook; Dever; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Hacker; Heckaman; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Marcellais; Mathern; Nelson; Nething; O'Connell; Oehlke; Olafson; Potter; Robinson; Seymour; Stenehjerm; Tallackson; Taylor; Tollefson; Triplett; Urlacher; Wanzek; Wardner; Warner

SB 2054 lost.

SECOND READING OF SENATE BILL

SB 2056: A BILL for an Act to repeal section 43-29-01 of the North Dakota Century Code, relating to the statement of purpose for the licensure of veterinarians.

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; Andrist; Bakke; Behm; Bowman; Christmann; Cook; Dever; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Hacker; Heckaman; Heitkamp; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Marcellais; Mathern; Nelson; Nething; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Seymour; Stenehjerm; Tallackson; Taylor; Tollefson; Triplett; Urlacher; Wanzek; Wardner; Warner

SB 2056 passed and the title was agreed to.

SECOND READING OF SENATE BILL

SB 2058: A BILL for an Act to authorize the game and fish department to transfer land to adjacent landowners around Golden Lake.

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; Andrist; Bakke; Behm; Bowman; Christmann; Cook; Dever; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Hacker; Heckaman; Heitkamp; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Marcellais; Mathern; Nelson; Nething; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Seymour; Stenehjem; Tallackson; Taylor; Tollefson; Triplett; Urlacher; Wanzek; Wardner; Warner

SB 2058 passed and the title was agreed to.

SECOND READING OF SENATE BILL

SB 2059: A BILL for an Act to amend and reenact section 20.1-03-12 of the North Dakota Century Code, relating to fees for game and fish licenses and permits to propagate, domesticate, or possess protected wildlife.

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; Andrist; Bakke; Behm; Bowman; Christmann; Cook; Dever; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Hacker; Heckaman; Heitkamp; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Marcellais; Mathern; Nelson; Nething; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Seymour; Stenehjem; Tallackson; Taylor; Tollefson; Triplett; Urlacher; Wanzek; Wardner; Warner

SB 2059 passed and the title was agreed to.

SECOND READING OF SENATE BILL

SB 2077: A BILL for an Act to amend and reenact section 64-02-02 and subsection 1 of section 64-02-07 of the North Dakota Century Code, relating to the installation of weighing or measuring devices and the maintenance of state weights and measures standards.

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; Andrist; Bakke; Behm; Bowman; Christmann; Cook; Dever; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Hacker; Heckaman; Heitkamp; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Marcellais; Mathern; Nelson; Nething; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Seymour; Stenehjem; Tallackson; Taylor; Tollefson; Triplett; Urlacher; Wanzek; Wardner; Warner

SB 2077 passed and the title was agreed to.

SECOND READING OF SENATE BILL

SB 2061: A BILL for an Act to amend and reenact subsection 7 of section 54-24-03 of the North Dakota Century Code, relating to duties of the state librarian to compile statistics on public libraries.

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; Andrist; Bakke; Behm; Bowman; Christmann; Cook; Dever; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Hacker; Heckaman; Heitkamp; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Marcellais; Mathern;

Nelson; Nething; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Seymour; Stenehjelm; Tallackson; Taylor; Tollefson; Triplett; Urlacher; Wanzek; Wardner; Warner

SB 2061 passed and the title was agreed to.

SECOND READING OF SENATE BILL

SB 2086: A BILL for an Act to amend and reenact subsection 5 of section 57-40.3-01 of the North Dakota Century Code, relating to use of total loss statements.

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; Andrist; Bakke; Behm; Bowman; Christmann; Cook; Dever; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Hacker; Heckaman; Heitkamp; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Marcellais; Mathern; Nelson; Nething; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Seymour; Stenehjelm; Tallackson; Taylor; Tollefson; Triplett; Urlacher; Wanzek; Wardner; Warner

SB 2086 passed and the title was agreed to.

SECOND READING OF SENATE BILL

SB 2090: A BILL for an Act to amend and reenact section 48-10-02 of the North Dakota Century Code, relating to use of and expenditures from the capitol building 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 46 YEAS, 1 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

YEAS: Anderson; Andrist; Bakke; Behm; Bowman; Cook; Dever; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Hacker; Heckaman; Heitkamp; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Marcellais; Mathern; Nelson; Nething; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Seymour; Stenehjelm; Tallackson; Taylor; Tollefson; Triplett; Urlacher; Wanzek; Wardner; Warner

NAYS: Christmann

SB 2090 passed and the title was agreed to.

SECOND READING OF SENATE BILL

SB 2111: A BILL for an Act to amend and reenact section 39-22-17 of the North Dakota Century Code, relating to motor vehicle dealer plates.

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; Andrist; Bakke; Behm; Bowman; Christmann; Cook; Dever; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Hacker; Heckaman; Heitkamp; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Marcellais; Mathern; Nelson; Nething; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Seymour; Stenehjelm; Tallackson; Taylor; Tollefson; Triplett; Urlacher; Wanzek; Wardner; Warner

SB 2111 passed and the title was agreed to.

SECOND READING OF SENATE BILL

SB 2119: A BILL for an Act to amend and reenact sections 43-01-09, 43-01-14, and 43-01-23 of the North Dakota Century Code, relating to licensed abstracter records.

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; Andrist; Bakke; Behm; Bowman; Christmann; Cook; Dever; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Hacker; Heckaman; Heitkamp; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Marcellais; Mathern; Nelson; Nething; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Seymour; Stenehjem; Tallackson; Taylor; Tollefson; Triplett; Urlacher; Wanzek; Wardner; Warner

SB 2119 passed and the title was agreed to.

MOTION

SEN. CHRISTMANN MOVED that the Senate be on the Fifth and Ninth orders of business and at the conclusion of those orders, the Senate stand adjourned until 1:00 p.m., Tuesday, January 9, 2007, which motion prevailed.

REPORT OF STANDING COMMITTEE

SB 2049: Judiciary Committee (Sen. Nething, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2049 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2052: Judiciary Committee (Sen. Nething, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2052 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2055: Judiciary Committee (Sen. Nething, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2055 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2062: Judiciary Committee (Sen. Nething, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2062 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2069: Human Services Committee (Sen. J. Lee, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2069 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2079: Finance and Taxation Committee (Sen. Urlacher, Chairman) recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2079 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2088: Finance and Taxation Committee (Sen. Urlacher, Chairman) recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2088 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2093: Government and Veterans Affairs Committee (Sen. Dever, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (06 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2093 was placed on the Sixth order on the calendar.

Page 1, line 1, after "to" insert "create and enact a new section to chapter 11-10 of the North Dakota Century Code, relating to authorizing counties to enter purchasing card agreements; to" and after "reenact" insert "section 11-10-16,"

Page 1, line 3, after "state" insert "and county"

Page 1, line 4, after "expenditures" insert "; and to provide a penalty"

Page 1, after line 5, insert:

"**SECTION 1. AMENDMENT.** Section 11-10-16 of the North Dakota Century Code is amended and reenacted as follows:

11-10-16. Statement to claim mileage. ~~Before~~Unless the expense was incurred by the use of a purchasing card, before an allowance for mileage or travel expense may be paid by a county, the ~~person~~ individual for whose travel the claim is made shall file with the county auditor an itemized statement verified by affidavit showing the number of miles traveled, the mode of travel, the days of traveling, the purpose of the travel, and the destination. Before a claim for mileage is allowed or paid, the claimant shall file the statement and affidavit with the board of county commissioners which shall decide whether to allow the claim.

SECTION 2. A new section to chapter 11-10 of the North Dakota Century Code is created and enacted as follows:

Purchasing card authority - Penalty.

1. A board of county commissioners may approve entering a purchasing card agreement, including participation in a cooperative purchasing contract established by the office of management and budget.
2. A public officer or employee who willfully uses or approves any purchase with a purchasing card which is false or unlawful or otherwise does not comply with any requirement in the contractual agreement is guilty of theft and punishable under chapter 12.1-23.
3. A public officer or employee who willfully uses or approves a payment with a purchasing card which is false or unlawful or not authorized is personally liable for any funds improperly expended.
4. The manager of a purchasing card system or any other individual who has knowledge of an actual or possible violation of this section shall make the information known to the attorney general or the appropriate state's attorney. Upon receipt of a report of an alleged violation, the attorney general or state's attorney shall investigate the alleged violation and, if a violation appears to exist, prosecute the offender or bring a civil suit for the recovery of the funds that may have been improperly paid against the payee and the individual who approved the payment.
5. An officer or employee who approves any payment negligently has the right of subrogation against the payee of the payment if public funds have been improperly paid to the payee."

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2099: 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 2099 was placed on the Sixth order on the calendar.

Page 1, line 11, after "the" insert "state seed department, the"

Page 1, line 12, after "or" insert an underscored comma

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2127: Education Committee (Sen. Freborg, Chairman) recommends **DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2127 was placed on the Eleventh order on the calendar.

FIRST READING OF SENATE BILLS

Sens. Behm, Mathern, Anderson and Rep. Gruchalla introduced:

SB 2143: A BILL for an Act to create and enact chapter 16.1-08.2 of the North Dakota Century Code, relating to public financing of clean election campaigns; to provide a penalty; and to provide a continuing appropriation.

Was read the first time and referred to the **Political Subdivisions Committee.**

Sens. Holmberg, Freborg, Tollefson and Reps. Boehning, Carlson, Martinson introduced:
SB 2144: A BILL for an Act to amend and reenact subsection 6 of section 40-05-02 of the North Dakota Century Code, relating to the fees for building permits.
Was read the first time and referred to the **Political Subdivisions Committee**.

Sens. Lyson, Hacker and Reps. Hatlestad, Sukut introduced:
SB 2145: A BILL for an Act to create and enact a new section to chapter 54-02 of the North Dakota Century Code, relating to designating the chokecherry as the official state fruit.
Was read the first time and referred to the **Natural Resources Committee**.

Sens. Heitkamp, G. Lee, Robinson and Reps. Amerman, Gulleeson, R. Kelsch introduced:
SB 2146: A BILL for an Act to amend and reenact subsection 1 of section 39-08-20 of the North Dakota Century Code, relating to proof of insurance.
Was read the first time and referred to the **Industry, Business and Labor Committee**.

Sen. Heitkamp and Reps. Amerman, Gulleeson introduced:
SB 2147: A BILL for an Act to amend and reenact section 20.1-03-07.1 of the North Dakota Century Code, relating to nonresidents hunting geese in Richland and Sargent Counties during the early goose season.
Was read the first time and referred to the **Natural Resources Committee**.

Sens. Nething, Heitkamp and Reps. Ruby, Vigesaa introduced:
SB 2148: A BILL for an Act to amend and reenact sections 39-22-04, 39-22-06, 39-22-14, 39-22-15, 39-22-16, 39-22-17, 39-22-20, 39-22-21, 39-22-22, and 39-22-23 of the North Dakota Century Code, relating to penalties for motor vehicle dealer licensees.
Was read the first time and referred to the **Transportation Committee**.

Sens. Lindaas, Olafson, Wanzek and Reps. Aarsvold, Monson, Vigesaa introduced:
SB 2149: A BILL for an Act to amend and reenact section 11-11.1-03 of the North Dakota Century Code, relating to powers of job development authorities to take equity positions.
Was read the first time and referred to the **Political Subdivisions Committee**.

Sen. Bowman and Rep. Damschen introduced:
SB 2150: A BILL for an Act to create and enact a new section to chapter 53-06.1 of the North Dakota Century Code, relating to net proceeds and gaming taxes.
Was read the first time and referred to the **Judiciary Committee**.

Sens. Krebsbach, Horne, J. Lee and Reps. N. Johnson, Keiser, Thorpe introduced:
SB 2151: A BILL for an Act to amend and reenact sections 6-08-16 and 6-06-16.2 of the North Dakota Century Code, relating to increasing fees and costs for checks issued on closed accounts and accounts with insufficient funds; and to provide a penalty.
Was read the first time and referred to the **Industry, Business and Labor Committee**.

Sens. Nething, J. Lee, Warner and Reps. Pietsch, Price introduced:
SB 2152: A BILL for an Act to create and enact two new subsections to section 43-28.1-03 of the North Dakota Century Code, relating to selection criteria and eligibility for loan repayment by dentists.
Was read the first time and referred to the **Human Services Committee**.

Sens. Klein, Andrist, Heitkamp and Reps. Ekstrom, Kasper, Ruby introduced:
SB 2154: A BILL for an Act to amend and reenact section 26.1-36-37.2 of the North Dakota Century Code, relating to loss ratios.
Was read the first time and referred to the **Industry, Business and Labor Committee**.

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

William R. Horton, Secretary