

JOURNAL OF THE HOUSE

Fifty-fifth Legislative Assembly

* * * * *

Bismarck, March 21, 1997

The House convened at 9:00 a.m., with Speaker Timm presiding.

The prayer was offered by Father Phil Ackerman, Holy Spirit Catholic Church, Fargo.

The roll was called and all members were present except Representatives Brandenburg, Mickelson, and Olson.

A quorum was declared by the Speaker.

COMMUNICATION FROM GOVERNOR

The following communication was received from the Governor at 3:30 p.m., March 20, 1997.

This is to inform you that on March 20, 1997, I signed the following: HB 1095, HB 1131, and HB 1172.

SIGNING OF BILLS AND RESOLUTIONS

The Speaker signed the following enrolled bills: HB 1032, HB 1081, HB 1086, HB 1139, HB 1140, HB 1176, HB 1194, HB 1287, HB 1320, HB 1381, HB 1389.

MESSAGE TO THE SENATE FROM THE HOUSE (ROY GILBREATH, CHIEF CLERK)

MADAM PRESIDENT: The Speaker has signed and your signature is respectfully requested on: HB 1032, HB 1081, HB 1086, HB 1139, HB 1140, HB 1176, HB 1194, HB 1287, HB 1320, HB 1381, HB 1389.

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM C. PARKER, SECRETARY)

MR. SPEAKER: The Senate has amended and subsequently passed: HB 1058, HB 1084, HB 1137, HB 1138, HB 1182, HB 1189, HB 1243, HB 1445.

SENATE AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1058

Page 3, line 28, after the underscored comma insert "one of whom must be a representative of the fluid and gas fuels industry."

Renumber accordingly

SENATE AMENDMENTS TO HOUSE BILL NO. 1084

Page 1, line 11, after the period insert "If the state toxicologist, the director of the forensic sciences division of the state department of health, or any employee of either, is subpoenaed to testify by a defendant who is not indigent and the defendant does not call the witness to establish relevant evidence, the court shall order the defendant to pay costs to the witness as provided in section 31-01-16."

Renumber accordingly

SENATE AMENDMENTS TO HOUSE BILL NO. 1137

Page 2, line 22, overstrike "this chapter" and insert immediately thereafter "subdivision a of subsection 4 of section 54-52-17"

Renumber accordingly

SENATE AMENDMENTS TO HOUSE BILL NO. 1138

Page 1, line 1, replace "paragraph to subdivision b of subsection 4 of" with "section to chapter 54-52"

Page 1, line 2, remove "section 54-52-17"

Page 1, line 5, replace "paragraph to subdivision b of subsection 4 of section 54-52-17" with "section to chapter 54-52"

Page 1, line 6, remove "the 1995 Supplement to"

Page 1, replace lines 7 through 14 with:

"Judges postretirement adjustments. A supreme or district court judge who, on December 31, 1997, is receiving retirement benefits under subdivision b of subsection 4 of section 54-52-17 is entitled to receive an increase in benefits equal to two percent of the individual's present benefits with the increase payable beginning January 1, 1998. A supreme or district court judge who, on December 31, 1998, is receiving retirement benefits under subdivision b of subsection 4 of section 54-52-17 is entitled to receive an increase in benefits equal to two percent of the individual's present benefits with the increase payable beginning January 1, 1999."

Renumber accordingly

SENATE AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1182

Page 1, line 3, remove "to amend and reenact section 36-01-08.2 of the North Dakota Century Code, relating"

Page 1, line 4, remove "to certain animals held in captivity;"

Page 1, line 8, remove the underscore under "**Ownership of**", remove "**wolves, wolf hybrids**", remove the underscore under "**skunks**", remove the third underscored comma, and remove the underscore under "**and raccoons prohibited - Exception**"

Page 1, line 9, remove the underscore under "**- Rules - Penalty. No person may keep a**", remove "**wolf, wolf hybrid**", remove the underscore under "**skunk**", remove the third underscored comma, and remove the underscore under "**or raccoon in captivity. This**"

Page 1, remove the underscore under lines 10 and 11

Page 1, line 12, remove the underscore under "agriculture." and remove "A person keeping a wolf, wolf hybrid, skunk, or raccoon in captivity on August 1,"

Page 1, line 13, remove "1997, may continue to keep that animal if it is neutered." and remove the underscore under "The state veterinarian shall confiscate"

Page 1, remove the underscore under line 14

Page 1, line 15, remove the underscore under "governing the keeping of", replace "primates" with "a primate, wolf, or wolf hybrid", and remove the underscore under "in captivity and to implement this section. As used in this"

Page 1, remove the underscore under lines 16 through 18

Page 1, remove lines 19 through 24

Renumber accordingly

SENATE AMENDMENTS TO HOUSE BILL NO. 1189

Page 1, line 13, remove "has confined oneself to"

Page 1, line 14, remove "prevent apprehension, an individual", overstrike "is being unlawfully confined", remove the second underscored comma, overstrike "or", and remove "an individual"

Page 1, line 15, overstrike "has been taken hostage"

Page 1, line 17, after the overstruck comma insert "could suffer injury or death as a result of the incident"

Renumber accordingly

SENATE AMENDMENTS TO HOUSE BILL NO. 1243

Page 1, line 1, replace "section" with "sections" and after "39-05-17.2" insert "and 39-05-20.2"

Page 1, line 2, after "disclosure" insert "and salvage certificate of title"

Page 1, line 15, replace "four" with "nine"

Page 1, line 16, replace "five" with "ten"

Page 1, line 23, replace "fifty" with "the greater of five thousand dollars or forty"

Page 2, line 4, after the underscored period insert "A person repairing, replacing parts, or performing body work on a motor vehicle that is less than ten years old shall provide a statement to the owner of the motor vehicle when the motor vehicle has sustained motor vehicle damage requiring disclosure under this section. The owner shall disclose this damage when ownership of the motor vehicle is transferred. When a vehicle is damaged in excess of seventy-five percent of its retail value, the person repairing, replacing parts, or performing body work on the motor vehicle that is less than ten years old shall also advise the owner of the motor vehicle that the owner of the vehicle must comply with section 39-05-20.2.

5. The amount of damage to a motor vehicle is determined by adding the retail value of all labor, parts, and material used in repairing the damage. When the retail value of labor has not been determined by a purchase in the ordinary course of business, for example when the labor is performed by the owner of the vehicle, the retail value of the labor is presumed to be the product of the repair time, as provided in a generally accepted autobody repair flat rate manual, multiplied by thirty-five dollars.

6."

Page 2, after line 5, insert:

"SECTION 2. AMENDMENT. Section 39-05-20.2 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

39-05-20.2. Issuance of salvage certificate of title. ~~Any person or organization who completely destroys or completely dismantles a vehicle so as to cause that vehicle to lose its identity~~ The owner of a vehicle that is damaged in excess of seventy-five percent of its retail value shall forward the title for that vehicle to the department within ten days and the department shall issue a salvage certificate of title.

If a vehicle for which a salvage certificate of title has been issued is reconstructed, a regular certificate of title may be obtained by completing an application for the certificate. The applicant shall include with the application a certificate of inspection in the form required by the department, the salvage certificate of title, and a five dollar fee. The department shall place on the regular certificate of title and on all subsequent certificates of title issued for the vehicle, a notation that damage disclosure information is available from the department. The department may not issue a new certificate unless the vehicle identification number of the vehicle has been inspected and found to conform to the description given in the application, or unless other proof of the identity of the vehicle has been provided to the satisfaction of the department."

Renumber accordingly

SENATE AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1445

Page 1, line 2, remove "a licensed architect or registered professional engineer as"

Page 2, line 15, remove "licensed architect or registered professional engineer as"

Page 2, line 16, remove "a licensed architect or registered professional engineer as"

Page 2, line 17, replace "licensed architect or registered" with "construction manager"

Page 2, line 18, remove "professional engineer" and remove "In selecting a construction manager, the"

Page 2, remove line 19

Page 2, line 20, remove "chapter."

Renumber accordingly

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM C. PARKER, SECRETARY)

MR. SPEAKER: The Senate has amended and subsequently passed: HB 1063, HB 1135, HB 1163, HB 1210, HB 1267, HB 1351, HB 1364, HB 1468.

SENATE AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1063

Page 1, line 11, after "proceeding" insert ", except a hearing for a motion to suppress evidence,"

Page 1, line 17, replace "objects" with "files an objection" and replace "before the" with "no later than ten days after the date of notice of assignment or reassignment of a judge for trial of the case"

Page 1, line 18, remove "commencement of the trial"

Page 3, line 14, replace "objects" with "files an objection"

Page 3, line 15, replace "before the commencement of the trial" with "no later than ten days after the date of notice of assignment or reassignment of a judge for trial of the case"

Renumber accordingly

SENATE AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1135

Page 4, line 31, remove "a physician assistant, or a fluoroscopy technologist," and overstrike "the state medical association"

Page 5, line 1, overstrike "and its components" and insert immediately thereafter "a physician assistant, or a fluoroscopy technologist"

Page 5, line 12, after "licensee" insert "the commission shall", overstrike the second comma, and after "may" insert an underscored comma

Page 5, line 25, after the underscored period insert "An agency or health care institution that violates this section is guilty of a class B misdemeanor. A physician, physician assistant, or radiology technologist who violates this section is subject to administrative action by the North Dakota state board of medical examiners as specified by law or by administrative rule."

Renumber accordingly

SENATE AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1163

Page 1, line 11, after "state" insert ", except that the rate of tax under this section is reduced to seventeen cents per gallon [3.79 liters] if the appropriation provided for the support of the highway patrol for the 1997-99 biennium appropriates or transfers an amount exceeding eighteen million dollars from the state highway fund and any other fund in which revenues from taxes imposed under this chapter are deposited"

Page 1, line 21, overstrike the third "special" and insert immediately thereafter "the rate of tax under this section is reduced to seventeen cents per gallon [3.79 liters] if the appropriation provided for the support of the highway patrol for the 1997-99 biennium appropriates or transfers an amount exceeding eighteen million dollars from the state highway fund and any other fund in which revenues from taxes imposed under this chapter are deposited. Special"

Renumber accordingly

SENATE AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1210

Page 3, line 7, after the underscored period insert "Rules for accreditation of continuing education must allow accreditation for a variety of types of continuing education forums, including live presentations and correspondence education."

Renumber accordingly

SENATE AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1267

Page 1, line 11, remove "that is the"

Page 1, remove line 12

Page 1, line 13, remove "applicant"

Renumber accordingly

SENATE AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1351

Page 1, line 1, after "providers" insert "and informal discussions"

Page 1, line 3, after "providers" insert "and informal discussion"

Page 1, line 7, replace "information or opinion" with "medical records, opinions, or other information"

Page 1, line 11, replace "informally discuss the information or opinion" with "examine the medical records, opinions, or other information and informally participate in a discussion" and after "provider" insert a comma

Page 1, line 12, after "consents" insert ", regarding the medical records, opinions, or other information that appear reasonably calculated to lead to the discovery of admissible evidence as to any element of the action or the defense of the action" and replace "information or opinions obtained from a physician during an" with "statements made by a health care provider during an informal discussion are not admissible, directly or by reference in direct or cross-examination of any witness, in any administrative, civil, or criminal proceeding. However, this section does not render inadmissible any statements obtained from the health care provider in discovery or any legal proceedings independent of the informal discussion which are otherwise admissible in the administrative, civil, or criminal proceeding."

Page 1, remove line 13

Page 1, line 17, after the period insert "If the plaintiff's attorney, after consultation with the defendant's attorney, is unable to attend the discussion at the time or on the date specified in the notice or at some other agreed upon date and time, the court in which the action is pending shall, upon motion of any party before the date specified in the notice, hold a scheduling conference to set a date and time for the informal discussion that will best serve the convenience of the parties and the health care provider and the interests of justice."

Page 1, line 20, after "party" insert "to the action"

Renumber accordingly

SENATE AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1364

Page 1, line 2, after "reenact" insert "subsection 2 of section 57-40.3-01 and"

Page 1, line 3, after "to" insert "the definition of motor vehicle and"

Page 1, line 8, after "in" insert "subsection 2 of"

Page 1, line 9, replace "57-55-01" with "57-55-10"

Page 1, after line 13, insert:

"SECTION 2. AMENDMENT. Subsection 2 of section 57-40.3-01 of the North Dakota Century Code is amended and reenacted as follows:

2. "Motor vehicle" includes every vehicle ~~which that~~ is self-propelled and every vehicle ~~which that~~ is propelled by electric power obtained from overhead trolley wires, but not operated upon rails, every trailer, semitrailer, park model trailer as defined in subsection 2 of section 57-55-10, all-terrain vehicle, snowmobile, and travel trailer for which a certificate of title is required to be obtained ~~pursuant to the provisions of under~~ chapter 39-05, but not including house trailers, or mobile homes."

Renumber accordingly

SENATE AMENDMENTS TO HOUSE BILL NO. 1468

Page 2, line 11, after "employee" insert ", from the same employer,"

Renumber accordingly

HOUSE ENROLLING REPORT

The following bills were enrolled: HB 1040, HB 1098, and HB 1109.

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM C. PARKER, SECRETARY)

MR. SPEAKER: The Senate does not concur in the House amendments to SB 2042 and SB 2068 and the President has appointed as a conference committee to act with a like committee from the House on:

SB 2042: Sens. Lee; Fischer; Yockim

SB 2068: Sens. W. Stenehjem; Watne; Mutzenberger

SIXTH ORDER OF BUSINESS

REP. DORSO MOVED that the amendments on the Sixth order of business to Reengrossed SB 2015, Engrossed SB 2093, Engrossed SB 2113, Engrossed SB 2173, SB 2202, and Engrossed SB 2270 be adopted, which motion prevailed.

Reengrossed SB 2015, Engrossed SB 2093, Engrossed SB 2113, Engrossed SB 2173, SB 2202, and Engrossed SB 2270, as amended, were placed on the Fourteenth order of business on the calendar for the succeeding legislative day.

SIXTH ORDER OF BUSINESS

SB 2045, as engrossed: REP. KRETSCHMAR (Judiciary Committee) MOVED that the amendments on HJ pages 999-1000 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion failed.

MOTION

REP. DORSO MOVED that in accordance with House Rule 601, Section 3(g), Engrossed SB 2045, would be placed on the Fourteenth order for second reading and final passage, which motion prevailed.

SECOND READING OF SENATE BILL

SB 2045: A BILL for an Act to create and enact chapter 12-55.1 of the North Dakota Century Code, relating to the pardon advisory board and to pardons, conditional pardons, reprieves, and commutations; to amend and reenact subsection 5 of section 12-60-16.2, subsections 15 and 17 of section 12.1-34-02, subsection 4 of section 12.1-34-03, subsection 5 of section 27-20-52, subsection 1 of section 28-32-01, and subsection 1 of section 54-07-01.2 of the North Dakota Century Code, relating to the pardon advisory board and to membership of boards; and to repeal chapter 12-55 of the North Dakota Century Code, relating to pardons, reprieves, and commutations.

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 71 YEAS, 23 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

YEAS: Axtman; Belter; Berg; Bernstein; Brown; Brusegaard; Byerly; Carlisle; Carlson; Christopherson; Clark; Coats; Dalrymple; DeKrey; Delzer; Devlin; Dorso; Drovdal; Freier; Froseth; Galvin; Gerntholz; Glassheim; Gorder; Grande; Grosz; Gunter; Hausauer; Hawken; Henegar; Jacobs; Jensen; Johnsen, C.; Johnson, D.; Keiser; Kelsch, R.; Kempenich; Kilzer; Klein; Kliniske; Koppelman; Kretschmar; Kroepelin; Kunkel; Lloyd; Maragos; Martinson; Monson; Murphy; Nelson; Nicholas; Nottestad; Poolman; Price; Rennerfeldt; Sabby; Skarphol; Soukup; Stenehjem; Svedjan; Sveen; Thompson; Thoreson; Thorpe; Tollefson; Torgerson; Wald; Wardner; Weisz; Wentz; Speaker Timm

NAYS: Aarsvold; Boehm; Boucher; Callahan; Christenson; Delmore; Fairfield; Grumbo; Gulleon; Hanson; Huether; Kelsh, S.; Kerzman; Mahoney; Nichols; Niemeier; Oban; Renner; Rose; Sandvig; Schmidt; Warner; Wilkie

ABSENT AND NOT VOTING: Brandenburg; Mickelson; Olson

Engrossed SB 2045 passed and the title was agreed to.

SECOND READING OF SENATE BILL

SB 2043: A BILL for an Act to create and enact a new section to chapter 26.1-36 of the North Dakota Century Code, relating to health insurance coverage for mothers and newborns.

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

YEAS: Aarsvold; Axtman; Belter; Berg; Bernstein; Boehm; Boucher; Brown; Brusegaard; Byerly; Callahan; Carlisle; Carlson; Christenson; Christopherson; Clark; Coats; Dalrymple; DeKrey; Delmore; Delzer; Devlin; Dorso; Drovdal; Fairfield; Freier; Froseth; Galvin; Gerntholz; Glassheim; Gorder; Grande; Grosz; Grumbo; Gulleon; Gunter; Hanson; Hausauer; Hawken; Henegar; Huether; Jacobs; Jensen; Johnsen, C.;

Johnson, D.; Keiser; Kelsch, R.; Kelsh, S.; Kempenich; Kerzman; Kilzer; Klein; Kliniske; Koppelman; Kretschmar; Kroeplin; Kunkel; Lloyd; Mahoney; Maragos; Martinson; Monson; Murphy; Nelson; Nicholas; Nichols; Niemeier; Nottestad; Oban; Poolman; Price; Renner; Rennerfeldt; Rose; Sabby; Sandvig; Schmidt; Skarphol; Soukup; Stenehjem; Svedjan; Sveen; Thompson; Thoreson; Thorpe; Tollefson; Torgerson; Wald; Wardner; Warner; Weisz; Wentz; Wilkie; Speaker Timm

ABSENT AND NOT VOTING: Brandenburg; Mickelson; Olson

Engrossed SB 2043, as amended, passed and the title was agreed to.

SECOND READING OF SENATE BILL

SB 2115: A BILL for an Act to create and enact a new section to chapter 26.1-36 of the North Dakota Century Code, relating to insurance coverage for prostate-specific antigen tests.

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 61 YEAS, 33 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

YEAS: Aarsvold; Axtman; Boehm; Boucher; Byerly; Callahan; Carlisle; Christenson; Clark; Coats; Delmore; Fairfield; Freier; Galvin; Gorder; Grosz; Grumbo; Gulleeson; Gunter; Hanson; Hausauer; Hawken; Henegar; Huether; Johnson, D.; Keiser; Kelsch, R.; Kelsh, S.; Kerzman; Kliniske; Koppelman; Kretschmar; Kroeplin; Kunkel; Lloyd; Mahoney; Maragos; Martinson; Monson; Nicholas; Nichols; Niemeier; Nottestad; Oban; Poolman; Renner; Rose; Sabby; Sandvig; Schmidt; Soukup; Stenehjem; Sveen; Thompson; Thoreson; Thorpe; Tollefson; Torgerson; Warner; Wentz; Wilkie

NAYS: Belter; Berg; Bernstein; Brown; Brusegaard; Carlson; Christopherson; Dalrymple; DeKrey; Delzer; Devlin; Dorso; Drovdal; Froseth; Gerntholz; Glassheim; Grande; Jacobs; Jensen; Johnsen, C.; Kempenich; Kilzer; Klein; Murphy; Nelson; Price; Rennerfeldt; Skarphol; Svedjan; Wald; Wardner; Weisz; Speaker Timm

ABSENT AND NOT VOTING: Brandenburg; Mickelson; Olson

Engrossed SB 2115 passed and the title was agreed to.

SECOND READING OF SENATE BILL

SB 2122: A BILL for an Act to create and enact a new subsection to section 43-17-02 and sections 43-17-26.1 and 43-17-27.1 of the North Dakota Century Code, relating to persons exempt from licensure as a physician, physician license renewals and late fees, and continuing education for physicians; and to amend and reenact section 43-17-18 of the North Dakota Century Code, relating to license requirements for physicians.

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 93 YEAS, 0 NAYS, 0 EXCUSED, 4 ABSENT AND NOT VOTING.

YEAS: Aarsvold; Axtman; Belter; Berg; Bernstein; Boehm; Boucher; Brown; Brusegaard; Byerly; Callahan; Carlisle; Carlson; Christenson; Christopherson; Clark; Coats; Dalrymple; DeKrey; Delmore; Delzer; Devlin; Dorso; Drovdal; Fairfield; Freier; Froseth; Galvin; Gerntholz; Glassheim; Gorder; Grande; Grosz; Grumbo; Gulleeson; Gunter; Hanson; Hausauer; Hawken; Henegar; Huether; Jacobs; Jensen; Johnsen, C.; Johnson, D.; Keiser; Kelsch, R.; Kempenich; Kerzman; Kilzer; Klein; Kliniske; Koppelman; Kretschmar; Kroeplin; Kunkel; Lloyd; Mahoney; Maragos; Martinson; Monson; Murphy; Nelson; Nicholas; Nichols; Niemeier; Nottestad; Oban; Poolman; Price; Renner; Rennerfeldt; Rose; Sabby; Sandvig; Schmidt; Skarphol; Soukup; Stenehjem; Svedjan; Sveen; Thompson; Thoreson; Thorpe; Tollefson; Torgerson; Wald; Wardner; Warner; Weisz; Wentz; Wilkie; Speaker Timm

ABSENT AND NOT VOTING: Brandenburg; Kelsh, S.; Mickelson; Olson

SB 2122 passed and the title was agreed to.

SECOND READING OF SENATE BILL

SB 2139: A BILL for an Act to amend and reenact subsection 1 of section 15-39.1-09 and subsection 2 of section 15-39.1-10 of the North Dakota Century Code, relating to assessments and computation of benefits under the teachers' fund for retirement; to provide for application; and to provide a statement of legislative intent.

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 81 YEAS, 12 NAYS, 0 EXCUSED, 4 ABSENT AND NOT VOTING.

YEAS: Aarsvold; Axtman; Belter; Berg; Bernstein; Boucher; Brown; Byerly; Callahan; Carlisle; Christenson; Christopherson; Coats; Dalrymple; DeKrey; Delmore; Devlin; Dorso; Drovdal; Fairfield; Freier; Froseth; Galvin; Gerntholz; Glassheim; Gorder; Grumbo; Gulleeson; Gunter; Hanson; Hausauer; Hawken; Henegar; Huether; Jacobs; Jensen; Johnsen, C.; Johnson, D.; Keiser; Kelsch, R.; Kempenich; Kerzman; Kilzer; Klein; Kliniske; Koppelman; Kretschmar; Kroeplin; Mahoney; Maragos; Martinson; Monson; Murphy; Nelson; Nicholas; Nichols; Niemeier; Nottestad; Oban; Poolman; Price; Rennerfeldt; Rose; Sabby; Sandvig; Schmidt; Soukup; Stenehjerm; Svedjan; Sveen; Thompson; Thoreson; Thorpe; Torgerson; Wald; Wardner; Warner; Weisz; Wentz; Wilkie; Speaker Timm

NAYS: Boehm; Brusegaard; Carlson; Clark; Delzer; Grande; Grosz; Kunkel; Lloyd; Renner; Skarphol; Tollefson

ABSENT AND NOT VOTING: Brandenburg; Kelsh, S.; Mickelson; Olson

Engrossed SB 2139 passed and the title was agreed to.

SECOND READING OF SENATE BILL

SB 2240: A BILL for an Act to create and enact a new subsection to section 43-48-03 of the North Dakota Century Code, relating to clinical laboratory practice exemptions.

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 43 YEAS, 49 NAYS, 0 EXCUSED, 5 ABSENT AND NOT VOTING.

YEAS: Axtman; Belter; Berg; Boehm; Brown; Brusegaard; Byerly; Carlson; Dalrymple; DeKrey; Delmore; Delzer; Devlin; Dorso; Freier; Galvin; Gerntholz; Grande; Grosz; Henegar; Huether; Johnsen, C.; Keiser; Kelsch, R.; Kliniske; Koppelman; Kretschmar; Kunkel; Mahoney; Monson; Nelson; Nicholas; Nottestad; Poolman; Renner; Rennerfeldt; Sabby; Soukup; Stenehjerm; Torgerson; Wald; Wardner; Weisz

NAYS: Aarsvold; Bernstein; Boucher; Callahan; Carlisle; Christenson; Christopherson; Clark; Coats; Drovdal; Fairfield; Froseth; Glassheim; Gorder; Grumbo; Gulleeson; Gunter; Hanson; Hausauer; Hawken; Jacobs; Johnson, D.; Kempenich; Kerzman; Kilzer; Klein; Kroeplin; Lloyd; Maragos; Martinson; Murphy; Nichols; Niemeier; Oban; Price; Rose; Sandvig; Schmidt; Skarphol; Svedjan; Sveen; Thompson; Thoreson; Thorpe; Tollefson; Warner; Wentz; Wilkie; Speaker Timm

ABSENT AND NOT VOTING: Brandenburg; Jensen; Kelsh, S.; Mickelson; Olson

Engrossed SB 2240 lost.

SECOND READING OF SENATE BILL

SB 2285: A BILL for an Act to amend and reenact subdivision b of subsection 1 of section 12.1-20-03, subdivision c of subsection 1 of section 12.1-20-07, subsection 6 of section 19-03.1-05, subsection 4 of section 19-03.1-07, and subsection 4 of section 19-03.1-11 of the North Dakota Century Code, relating to controlled substances in sex crimes and the categorizing of controlled substances.

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 92 YEAS, 0 NAYS, 0 EXCUSED, 5 ABSENT AND NOT VOTING.

YEAS: Aarsvold; Axtman; Belter; Berg; Bernstein; Boehm; Boucher; Brown; Brusegaard; Byerly; Callahan; Carlisle; Carlson; Christenson; Christopherson; Clark; Coats; Dalrymple; DeKrey; Delmore; Delzer; Devlin; Dorso; Drovdal; Fairfield; Freier; Froseth; Galvin; Gerntholz; Glassheim; Gorder; Grande; Grosz; Grumbo; Gulleson; Gunter; Hanson; Hausauer; Hawken; Henegar; Huether; Jacobs; Johnsen, C.; Johnson, D.; Keiser; Kelsch, R.; Kempenich; Kerzman; Kilzer; Klein; Kliniske; Koppelman; Kretschmar; Kroeplin; Kunkel; Lloyd; Mahoney; Maragos; Martinson; Monson; Murphy; Nelson; Nicholas; Nichols; Niemeier; Nottestad; Oban; Poolman; Price; Renner; Rennerfeldt; Rose; Sabby; Sandvig; Schmidt; Skarphol; Soukup; Stenehjerm; Svedjan; Sveen; Thompson; Thoreson; Thorpe; Tollefson; Torgerson; Wald; Wardner; Warner; Weisz; Wentz; Wilkie; Speaker Timm

ABSENT AND NOT VOTING: Brandenburg; Jensen; Kelsh, S.; Mickelson; Olson

SB 2285 passed and the title was agreed to.

SECOND READING OF SENATE BILL

SB 2390: A BILL for an Act to create and enact a new section to chapter 14-09 of the North Dakota Century Code, relating to inclusion of a spouse's income in determining child support.

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 0 YEAS, 92 NAYS, 0 EXCUSED, 5 ABSENT AND NOT VOTING.

NAYS: Aarsvold; Axtman; Belter; Berg; Bernstein; Boehm; Boucher; Brown; Brusegaard; Byerly; Callahan; Carlisle; Carlson; Christenson; Christopherson; Clark; Coats; Dalrymple; DeKrey; Delmore; Delzer; Devlin; Dorso; Drovdal; Fairfield; Freier; Froseth; Galvin; Gerntholz; Glassheim; Gorder; Grande; Grosz; Grumbo; Gulleson; Gunter; Hanson; Hausauer; Hawken; Henegar; Huether; Jacobs; Johnsen, C.; Johnson, D.; Keiser; Kelsch, R.; Kempenich; Kerzman; Kilzer; Klein; Kliniske; Koppelman; Kretschmar; Kroeplin; Kunkel; Lloyd; Mahoney; Maragos; Martinson; Monson; Murphy; Nelson; Nicholas; Nichols; Niemeier; Nottestad; Oban; Poolman; Price; Renner; Rennerfeldt; Rose; Sabby; Sandvig; Schmidt; Skarphol; Soukup; Stenehjerm; Svedjan; Sveen; Thompson; Thoreson; Thorpe; Tollefson; Torgerson; Wald; Wardner; Warner; Weisz; Wentz; Wilkie; Speaker Timm

ABSENT AND NOT VOTING: Brandenburg; Jensen; Kelsh, S.; Mickelson; Olson

Engrossed SB 2390 lost.

SECOND READING OF SENATE CONCURRENT RESOLUTION

SCR 4005: A concurrent resolution for the amendment of section 13 of article VI of the Constitution of North Dakota, relating to the filling of judicial vacancies.

ROLL CALL

The question being on the final adoption of the resolution, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 87 YEAS, 5 NAYS, 0 EXCUSED, 5 ABSENT AND NOT VOTING.

YEAS: Aarsvold; Axtman; Belter; Berg; Bernstein; Boehm; Boucher; Brown; Brusegaard; Byerly; Callahan; Carlisle; Carlson; Christenson; Christopherson; Clark; Coats; Dalrymple; DeKrey; Delmore; Delzer; Devlin; Dorso; Drovdal; Fairfield; Freier; Froseth; Galvin; Gerntholz; Gorder; Grande; Grosz; Grumbo; Gunter; Hanson; Hausauer; Hawken; Henegar; Jacobs; Johnsen, C.; Johnson, D.; Keiser; Kelsch, R.; Kempenich; Kerzman; Kilzer; Klein; Kliniske; Koppelman; Kretschmar; Kroeplin; Kunkel; Lloyd; Mahoney; Maragos; Martinson; Monson; Murphy; Nelson; Nicholas; Nichols; Niemeier; Nottestad; Oban; Poolman; Price; Renner; Rennerfeldt; Rose; Sabby; Sandvig; Schmidt; Skarphol; Soukup; Stenehjerm; Svedjan; Sveen; Thompson; Thoreson; Thorpe; Tollefson; Torgerson; Wald; Wardner; Weisz; Wentz; Speaker Timm

NAYS: Glassheim; Gulleeson; Huether; Warner; Wilkie

ABSENT AND NOT VOTING: Brandenburg; Jensen; Kelsh, S.; Mickelson; Olson

SCR 4005 was declared adopted on a roll call vote.

SECOND READING OF SENATE CONCURRENT RESOLUTION ON CONSENT CALENDAR

SCR 4041: A concurrent resolution directing the Legislative Council to study the establishment of watershed districts to manage water based on watershed boundaries.

ROLL CALL

The question being on the final adoption of the resolution, which has been read, the roll was called and there were 92 YEAS, 0 NAYS, 0 EXCUSED, 5 ABSENT AND NOT VOTING.

YEAS: Aarsvold; Axtman; Belter; Berg; Bernstein; Boehm; Boucher; Brown; Brusegaard; Byerly; Callahan; Carlisle; Carlson; Christenson; Christopherson; Clark; Coats; Dalrymple; DeKrey; Delmore; Delzer; Devlin; Dorso; Drovdal; Fairfield; Freier; Froseth; Galvin; Gerntholz; Glassheim; Gorder; Grande; Grosz; Grumbo; Gulleeson; Gunter; Hanson; Hausauer; Hawken; Henegar; Huether; Jacobs; Johnsen, C.; Johnson, D.; Keiser; Kelsch, R.; Kempenich; Kerzman; Kilzer; Klein; Kliniske; Koppelman; Kretschmar; Kroeplin; Kunkel; Lloyd; Mahoney; Maragos; Martinson; Monson; Murphy; Nelson; Nicholas; Nichols; Niemeier; Nottestad; Oban; Poolman; Price; Renner; Rennerfeldt; Rose; Sabby; Sandvig; Schmidt; Skarphol; Soukup; Stenehjelm; Svedjan; Sveen; Thompson; Thoreson; Thorpe; Tollefson; Torgerson; Wald; Wardner; Warner; Weisz; Wentz; Wilkie; Speaker Timm

ABSENT AND NOT VOTING: Brandenburg; Jensen; Kelsh, S.; Mickelson; Olson

SCR 4041 was declared adopted on a recorded roll call vote.

MOTION

REP. FREIER MOVED that the absent members be excused, which motion prevailed.

MOTION

REP. FREIER MOVED that the House be on the Fifth and Sixteenth orders of business and at the conclusion of those orders, the House stand adjourned until 1:00 p.m., Monday, March 24, 1997, which motion prevailed.

REPORT OF STANDING COMMITTEE

SB 2030, as engrossed: Judiciary Committee (Rep. Kretschmar, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed SB 2030 was placed on the Sixth order on the calendar.

Page 1, line 2, after "offenders" insert "; and to provide a penalty"

Page 1, line 8, replace the second "as" with "is" and replace "felony" with "violation of"

Page 1, line 9, remove "in"

Page 1, line 11, replace "adjudication" with "disposition"

Page 1, line 12, replace "adjudication" with "disposition"

Page 1, line 15, replace "adjudication" with "disposition" and remove "Based on any previous informal adjustment,"

Page 1, remove lines 16 through 18

Page 1, line 19, remove "adjudication for one of the above offenses." and replace "the original" with "a copy of"

Page 1, line 20, remove "disposition order and", replace "its conditions" with "the order", and remove the period

Page 1, line 21, remove "The court shall send this information"

Page 1, line 23, after the period insert "If a person who is listed on the data base has a change in name or address, that person shall inform the attorney general in writing, within ten days, of the person's new name or address and shall otherwise comply with address verification procedures as required by the attorney general. The person shall comply with this requirement for ten years after the date of the disposition, or until destruction of the records is ordered by the court, whichever date is earlier. A person listed on the data base who violates this section is guilty of a class A misdemeanor.

3."

Page 1, line 24, replace "adjudication" with "disposition"

Page 2, line 1, replace the first semicolon with "and" and remove "; and when"

Page 2, remove lines 2 through 5

Page 2, line 6, remove "the child's education records and is confidential" and after the period insert "The court shall notify the superintendent of the school district and the principal of the school the child attends of the disposition. The school administration shall notify the child's teachers and guidance counselor of this information and shall notify others in similar positions if the child transfers to another learning institution in or outside the state."

Page 2, line 7, replace "adjudication" with "disposition"

Page 2, line 10, replace "adjudication" with "disposition"

Page 2, line 11, replace "3" with "4" and remove "or school district"

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2160, as engrossed: Transportation Committee (Rep. Skarphol, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (9 YEAS, 0 NAYS, 5 ABSENT AND NOT VOTING). Engrossed SB 2160 was placed on the Sixth order on the calendar.

Page 1, line 1, after "enact" insert "a new subsection to section 12-60-16.4," and after "20.1-02-15.1" insert a comma

Page 1, line 3, after "39-24-09" insert "and section 39-24-11"

Page 1, after line 6, insert:

"SECTION 1. A new subsection to section 12-60-16.4 of the 1995 Supplement to the North Dakota Century Code is created and enacted as follows:

Infractions and misdemeanor violations of subdivision c of subsection 5 of section 39-24-09 and chapter 39-24.1."

Page 1, after line 13, insert:

"SECTION 4. AMENDMENT Section 39-24-11 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

39-24-11. Penalties. Any person who violates subdivision b, ~~e~~, or g of subsection 5 of section 39-24-09 is guilty of a class B misdemeanor. Any person who violates subdivision c of subsection 5 of section 39-24-09 is guilty of an infraction or a class B misdemeanor as determined by section 39-24.1-07. Any person who violates any other provision of section 39-24-09 must be assessed a fee of twenty dollars. Any person, unless specifically exempted, who fails to register as required by section 39-24-02 must be assessed a fee of fifty dollars. If the person provides proof of registration since the violation, the fee may be reduced by one-half. Any person who violates any other provision of this chapter for which a specific penalty is not provided must be assessed a fee of ten dollars."

Page 1, line 17, replace "in this state" with "on any public land or private land with public access"

Page 3, line 12, replace "following" with "test is evidence of a per se violation of subdivision c of subsection 5 of section 39-24-09."

Page 3, remove lines 13 through 31

Page 4, remove lines 1 through 15

Page 4, line 20, replace "statement of intent to prohibit the person from operating a snowmobile." with "summons or otherwise notify that person in writing to appear at the time and place specified in the summons or notice. The hearing and any appeal must be conducted as provided in section 39-06.1-03. If the person requests a hearing at a time and date other than as stated in the summons or notice, that person must post an appearance bond as required by subsection 2 of section 39-06.1-03. Upon establishing at the hearing by a preponderance of the evidence"

Page 4, remove lines 21 through 25

Page 4, line 26, remove "intent, showing"

Page 4, line 31, after the underscored comma insert "the court"

Page 5, line 1, replace "in this state" with "on all public land or private land with public access" and after "section" insert ", and shall impose a noncriminal statutory fee of five hundred dollars. A violation of this section must be reported to the parks and recreation department. The department shall keep a record of all reported violations"

Page 5, line 18, remove "No administrative hearing request is made under section 39-24.1-08;"

Page 5, line 19, remove "b.", replace "mails" with "files", and replace "to the director within ten days after the law" with "with the court before the time set for hearing in the summons or notice, or, with the permission of the court, within five days after the hearing"

Page 5, line 20, remove "enforcement officer issues the statement of intent"

Page 5, line 23, replace "twenty-five" with "thirty" and replace "law" with "date of the offense"

Page 5, line 24, remove "enforcement officer issues the statement of intent"

Page 5, line 26, after "period" insert "defined in section 39-24.1-07"

Page 5, line 27, replace "39-24.1-08" with "39-06.1-03"

Page 5, line 28, replace "39-24.1-09" with "39-06.1-03"

Page 6, line 2, replace "twenty-five" with "thirty" and replace "law enforcement officer issues" with "date of the offense"

Page 6, line 3, remove "the statement of intent"

Page 6, line 4, after the underscored semicolon insert "and"

Page 6, line 5, replace "c" with "b"

Page 6, line 6, replace "twenty-five" with "thirty" and replace "law enforcement officer issues the" with "date of the offense."

Page 6, line 7, remove "statement of intent;"

Page 6, remove lines 8 through 18

Page 6, line 19, replace "29-24.1-07" with "39-24.1-07" and replace "Administrative sanction" with "Criminal penalties"

Page 6, line 20, after "certain" insert "alcohol or" and replace "After the receipt of the certified report of a law enforcement" with "Upon conviction of a violation of subdivision c of subsection 5 of section 39-24-09, the court shall impose the following minimum penalties:"

1. If the person's record indicates that, within the five years preceding the date of the offense, the person has not violated subdivision c of subsection 5 of section 39-24-09 or the person has not been prohibited from operating a snowmobile under this chapter, the offense is an infraction. The court shall impose a minimum fine of two hundred fifty dollars and, as a condition of that person's probation, shall prohibit that person from operating a snowmobile on all public land or private land with public access for sixty days within the snowmobile season that runs from December 1 through April 1.
2. If the person's record indicates that, within the five years preceding the date of the offense, the person has one violation of subdivision c of subsection 5 of section 39-24-09 or the person has once been prohibited from operating a snowmobile under this chapter, the offense is an infraction. The court shall impose a minimum fine of three hundred fifty dollars and, as a condition of that person's probation, shall prohibit that person from operating a snowmobile on all public land or private land with public access for one year from the date of the sentence.
3. If the person's record indicates that, within the five years preceding the date of the offense, the person has two violations of subdivision c of subsection 5 of section 39-24-09 or the person has twice been prohibited from operating a snowmobile under this chapter, the offense is a class B misdemeanor. The court shall impose a minimum fine of four hundred fifty dollars and, as a condition of that person's probation, shall prohibit that person from operating a snowmobile on all public land or private land with public access for two years from the date of the sentence."

Page 6, remove lines 21 through 30

Page 7, remove lines 1 through 31

Page 8, remove lines 1 through 31

Page 9, remove lines 1 through 31

Page 10, remove lines 1 through 4

Page 10, line 5, replace "**39-24.1-10**" with "**39-24.1-08**"

Page 11, line 29, replace "**39-24.1-11**" with "**39-24.1-09**"

Page 12, line 3, replace "**39-24.1-12**" with "**39-24.1-10**"

Page 12, line 10, replace "**39-24.1-13**" with "**39-24.1-11**"

Page 12, line 13, replace "**39-24.1-14**" with "**39-24.1-12**"

Page 12, line 14, replace "in this state" with "on any public land or private land with public access"

Page 12, after line 15, insert:

"39-24.1-13. Fleeing or attempting to elude a peace officer.

1. Any driver of a snowmobile who willfully fails or refuses to bring the snowmobile to a stop, or who otherwise flees or attempts to elude, in any manner, a pursuing police vehicle or peace officer, when given a visual or audible signal to bring the snowmobile to a stop, is guilty of a class B misdemeanor for a first or second offense and a class A misdemeanor for a subsequent offense. A signal complies with this section if the signal is perceptible to the driver and:
 - a. If given from a vehicle, the signal is given by hand, voice, emergency light, or siren, and the stopping vehicle is appropriately marked showing it to be an official police vehicle; or
 - b. If not given from a vehicle, the signal is given by hand, voice, emergency light, or siren, and the officer is in uniform and prominently displays the officer's badge of office.

2. Any sentence imposed under this section must include a minimum fine of at least five hundred dollars."

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2194: Human Services Committee (Rep. Price, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (10 YEAS, 4 NAYS, 0 ABSENT AND NOT VOTING). SB 2194 was placed on the Sixth order on the calendar.

Page 1, line 2, after "disease" insert "; and to provide an expiration date"

Page 2, line 3, replace ", regardless of age or the existence of" with "under the age of twenty-two"

Page 2, line 4, remove "any preexisting condition"

Page 2, after line 6, insert:

"SECTION 2. EXPIRATION DATE. This Act is effective through July 31, 1999, and after that date is ineffective."

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2218: Agriculture Committee (Rep. Nicholas, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (9 YEAS, 3 NAYS, 1 ABSENT AND NOT VOTING). SB 2218 was placed on the Sixth order on the calendar.

Page 1, line 1, replace "section" with "sections 35-05-01 and"

Page 1, after line 4, insert:

"SECTION 1. AMENDMENT. Section 35-05-01 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

35-05-01. Security agreement on crops prohibited - Exceptions. Security interests in growing and unharvested crops are prohibited, and any security agreement purporting to create a security interest therein is void. The provisions of this section do not apply to any security interest or lien in favor of the United States, this state, any county, or any department or agency of any of them, including the Bank of North Dakota, nor to any financial institution as defined by section 6-01-02 or 21-04-01, nor to any ~~other~~ agricultural cooperative or agricultural lending agency, nor to any security interest created by contract to secure money advanced or loaned for the purpose of paying government crop insurance premiums or to secure the purchase price or the rental or improvement of the land upon which the crops covered by the contract are to be grown."

Page 1, line 18, after the underscored quotation mark insert "The lien on future crops maintains its priority as to crops grown in future years only so long as the lienholder continues to provide operating funds to the borrower. If, in any subsequent year, another entity entitled to a crop security interest under section 35-05-01 advances operating funds to a borrower, the entity has a first priority purchase money security interest in the crops grown by the borrower during the year in which the funds are advanced"

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2278, as engrossed: Human Services Committee (Rep. Price, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 6 NAYS, 1 ABSENT AND NOT VOTING). Engrossed SB 2278 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 create and enact subsections 14, 15, and 16 to section 26.1-04-03 of the North Dakota Century Code, relating to the restriction or interference with medical communications between

health care providers and patients and unfair indemnification provisions in contracts with health care providers.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Subsections 14, 15, and 16 to section 26.1-04-03 of the North Dakota Century Code are created and enacted as follows:

14. In subsections 15 and 16, unless the context otherwise requires:
 - a. "Entity" includes any third-party administrator or other person with responsibility for contracts with health care providers under a health plan.
 - b. "Health care provider" means any person that delivers, administers, or supervises health care products or services, for profit or otherwise, in the ordinary course of business or professional practice.
 - c. "Health plan" means any public or private plan arrangement that provides or pays the cost of health care providers that furnishes health services under a contract or agreement with this type of plan.
 - d. "Medical communication" means any communication, other than a knowing and willful misrepresentation, made by a health care provider to a patient regarding the health care needs or treatment options of the patient and the applicability of the health plan to the patient's needs or treatment. The term includes communications concerning:
 - (1) Any test, consultations, and treatment options;
 - (2) Any risks or benefits associated with tests, consultations, and options;
 - (3) Variation in experience, quality, or outcome among any health care providers or health care facilities providing any medical service;
 - (4) The process, basis, or standard used by any entity to determine whether to authorize or deny health care services or benefits; and
 - (5) Any financial incentives or disincentives based on service utilized provided by an entity to a health care provider.
 - e. "Patients" includes any former, current, or prospective patient or the guardian or legal representative of any former, current, or prospective patient.
15. Interference with certain medical communications.
 - a. An entity offering a health plan may not restrict or interfere with any medical communication and may not take any of the following actions against a health care provider solely on the basis of a medical communication:
 - (1) Refusal to contract with the health care provider;
 - (2) Termination of or refusal to renew a contract with the health care provider;
 - (3) Refusal to refer patients to or allow others to refer patients to the health care provider; or
 - (4) Refusal to compensate the health care provider for covered services that are medically necessary.
 - b. This subsection does not prohibit an entity from enforcing, as part of a contract or agreement to which a health care provider is a party, any

mutually agreed upon terms and conditions, including terms and conditions requiring a health care provider to participate in, and cooperate with, all programs, policies, and procedures developed or operated by a health plan to assure, review, or improve the quality and effective utilization of health care services, if the utilization is according to guidelines or protocols that are based on clinical or scientific evidence and only if the guidelines or protocols under the utilization do not prohibit or restrict medical communications between providers and their patients.

16. Unfair indemnification. A contract between an entity and a health care provider may not require the health care provider to indemnify the entity for the entity's negligence, willful misconduct, or breach of contract, and may not require a health care provider as a condition of participation to waive any right to seek legal redress against the entity. In addition to the proceedings and penalties provided in this chapter, a contract provision violating this subsection is void."

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2290: Judiciary Committee (Rep. Kretschmar, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (11 YEAS, 1 NAY, 2 ABSENT AND NOT VOTING). SB 2290 was placed on the Sixth order on the calendar.

Page 1, line 2, after "ballot" insert "; and to provide a statement of legislative intent"

Page 3, after line 27, insert:

"SECTION 4. LEGISLATIVE INTENT. It is the intent of the fifty-fifth legislative assembly that the secretary of state determine, by county, the number and percentage of party ballots that were void because a voter had voted in more than one party column at the 1998 primary election."

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2315, as engrossed: Agriculture Committee (Rep. Nicholas, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (11 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). Engrossed SB 2315 was placed on the Sixth order on the calendar.

Page 1, line 2, remove "aerial"

Page 1, line 8, remove "to a person engaged in aerial spraying"

Page 1, line 12, after "of" insert "net"

Page 1, line 20, replace "an aerial" with "a"

Page 1, line 24, after the period insert "A rancher is exempt from this section if the rancher is required to obtain a commercial pesticide applicator certificate for controlling noxious weeds on the leased federal acreage as a condition of a federal grasslands lease."

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2320: Industry, Business and Labor Committee (Rep. Berg, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (12 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING). SB 2320 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 amend and reenact sections 43-37-01, 43-37-02, 43-37-03, 43-37-04, 43-37-05, 43-37-09, and 43-37-13 of the North Dakota Century Code, relating to licensing of interpreters for deaf individuals."

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 43-37-01 of the North Dakota Century Code is amended and reenacted as follows:

43-37-01. Policy. It is ~~declared to be~~ a policy of ~~the this~~ state of North Dakota that, ~~in order~~ to safeguard the public health, safety, and welfare, ~~to~~ protect the public from being misled by incompetent, unscrupulous, and unauthorized persons and from unprofessional conduct on the part of persons providing services, ~~and to~~ obtain the highest possible quality audiology and speech-language pathology services to the communicatively handicapped people of this state, ~~and obtain quality interpreting services for the deaf~~ it is necessary to provide regulatory authority over persons offering audiology, interpreting, and speech-language pathology services to the public.

SECTION 2. AMENDMENT. Section 43-37-02 of the North Dakota Century Code is amended and reenacted as follows:

43-37-02. Definitions. As used in this chapter, unless the context ~~or subject matter~~ otherwise requires:

1. "Audiologist" means a person who practices audiology and who presents oneself to the public by any title or description of services ~~incorporating~~ using the words audiologist, hearing clinician, hearing therapist, or any similar title or description of service. No person may use the term "audiologist" in referring to oneself unless all the requirements of this chapter pertaining to audiology are met.
2. "Audiology" means the application of principles, methods, and procedures of measurement, testing, evaluation, prediction, consultation, counseling, instruction, habilitation, or rehabilitation related to hearing and disorders of hearing including vestibular testing, for the purpose of evaluating, identifying, preventing, ameliorating, or modifying ~~such those~~ disorders and conditions in individuals or groups of individuals.
3. "Board" means the state board of examiners on audiology, interpreting, and speech-language pathology.
4. "Habilitation" and "rehabilitation" include hearing aid evaluation and recommendation, auditory training, and speech reading.
5. "Interpreter" means a person who:
 - a. Interprets spoken English to American sign language;
 - b. Interprets American sign language to spoken English;
 - c. Translates spoken English to manually coded English or pidgin sign English;
 - d. Translates manually coded English or pidgin sign English to spoken English; or
 - e. Translates spoken English to paraphrased nonaudible spoken English.
6. "Interpreting service" means a person who provides interpretation or translation services to facilitate communication between a deaf or hard-of-hearing person and a hearing person.
7. "Person" means a human being.
6. 8. "Speech-language pathologist" means a person who practices speech-language pathology and meets all requirements of this chapter pertaining to speech-language pathology.
7. 9. "Speech-language pathology" means the application of principles, methods, and procedures for measurement, testing, evaluation, identification, prediction, counseling, or instruction related to the development and disorders of speech and language, including voice,

rhythm, and articulation for the purpose of identifying, evaluating, preventing, managing, habilitating or rehabilitating, ameliorating, or modifying ~~such~~ those disorders and conditions in individuals or groups of individuals.

SECTION 3. AMENDMENT. Section 43-37-03 of the North Dakota Century Code is amended and reenacted as follows:

43-37-03. License required - Exceptions. No person may practice or represent oneself as an audiologist or speech-language pathologist, or represent oneself as a licensed or certified interpreter of the deaf, in this state unless licensed annually in accordance with under this chapter. ~~However, this~~ This chapter does not prevent or restrict:

1. A physician or surgeon from engaging in the practice of medicine in this state.
2. A hearing aid dealer from engaging in testing of hearing and other practices and procedures used solely for ~~the~~ fitting and selling of hearing aids in this state ~~as provided in~~ under chapter 43-33.
3. Any person licensed in this state by any other law from engaging in the profession or occupation for which licensed.
4. ~~A~~ The activities and services of a person who holds a valid credential ~~teacher's certificate, issued by the education standards and practices board, as a speech-language pathologist or teacher of the hearing impaired, issued by the department of public instruction, deaf, or a person employed as an audiologist or speech-language pathologist by the government of the United States; if such this person performs speech-language pathology or audiology services solely within the confines or under the jurisdiction of the employing governmental or state educational organization by which employed. However, such~~ A person covered by this subsection may, without obtaining a license under this chapter, consult with or disseminate one's research findings and other scientific information to speech-language pathologists or audiologists outside the jurisdiction of the organization by which employing that person is employed.
5. The activities and services of a person pursuing a course of study leading to a degree in speech-language pathology or audiology at a college or university if ~~such~~ these activities and services ~~constitute a~~ are part of a supervised course of study and such this person is designated an audiology or a speech-language pathology intern, an audiology or a speech-language pathology trainee, or by any other such title clearly indicating the training status appropriate to the level of training.
6. The activities and services of persons fulfilling the requirements of subsection ~~3~~ 2 of section 43-37-04.
7. The performance of audiology or speech-language pathology services in this state by any person not a resident of this state who is not licensed under this chapter if ~~such~~ these services are performed for no more than five days in any calendar year and in cooperation with an audiologist or speech-language pathologist licensed under this chapter.
8. Any person holding a valid credential as a teacher of the hearing-impaired issued by the council on education of the deaf from engaging in the practice of habilitation and rehabilitation of hearing-impaired persons.
9. ~~No~~ A speech pathologist or audiologist licensed pursuant to under this chapter may receive from receiving any remuneration of any kind from the sale of any type of hearing aid unless he if that person is licensed as provided in under chapter 43-33.
10. Any person possessing a valid certificate as a certified audiometric technician recognized by the state board as meeting ~~Council~~ council for ~~Accreditation~~ accreditation in ~~Occupational Hearing Conservation Standards Appendix~~ occupational hearing conservation standards appendix II or its equivalent from providing audiometric testing if ~~such~~ this

service is performed in cooperation with either an audiologist licensed under this chapter or a licensed physician.

11. Any person providing hearing screening services as part of a public service project solely intended for the purposes of identification of hearing impairment if ~~such~~ these services are performed in cooperation with an audiologist who is licensed under this chapter ~~who~~ and is directly responsible for:
 - a. The training of ~~said~~ this person;
 - b. The administration of hearing screening procedures;
 - c. The interpretation of testing results; and
 - d. Assuring appropriate referral and followup of the identified population.
12. The activities and services of a person who is pursuing a course of study or training at a college or university if the activities and services constitute part of a supervised course of study leading to a career as an interpreter and the person is designated an interpreter intern, trainee, or by any other title clearly indicating the training status appropriate to the level of training.
13. A teacher using sign language or a manual communication system as an augmentative form of communication for a student whose primary disability is not deafness or hearing impairment.
14. A person using sign language or a manual communication system as a form of communication with or on behalf of a family member or a deaf person who has specifically requested that use by that person.
15. Communications necessary for the provision of an urgent or emergency medical or government service to a deaf person.
16. Communications made as a reasonable accomodation for the employment of a deaf person.
17. Communications with a deaf person who does not communicate using American sign language, manually coded English, or pidgin sign English.
18. Any activity by an unlicensed interpreter for deaf persons prior to August 1, 1999.

SECTION 4. AMENDMENT. Section 43-37-04 of the North Dakota Century Code is amended and reenacted as follows:

43-37-04. Eligibility for licensure. To be eligible for licensure by the board as an audiologist, interpreter for the deaf, or speech-language pathologist, a person ~~shall~~:

- ~~4.~~ Be must be of good moral character- and shall:
- ~~2.~~ 1. Possess at least a master's degree or its equivalent in the area of speech-language pathology or audiology from an educational institution recognized by the board, or an interpreting certification awarded by a national certifying agency, as appropriate for the type of license.
- ~~3.~~ 2. Submit evidence showing qualifications prescribed by rules of the board.
- ~~4.~~ 3. Pass an examination approved by the board and pay the prescribed fee. The board may waive the examination requirement if the applicant presents proof of licensure in another state ~~which~~ that has professional standards equivalent to those required by the board.

SECTION 5. AMENDMENT. Section 43-37-05 of the North Dakota Century Code is amended and reenacted as follows:

43-37-05. Board of examiners on audiology, interpreting, and speech-language pathology.

1. The board of examiners on audiology, interpreting, and speech-language pathology is ~~hereby~~ established.
2. The board ~~must be composed~~ consists of seven ~~nine~~ members appointed by the governor. ~~Appointees~~ An appointee must be a resident of this state for at least one year immediately preceding their before appointment and, except for the consumer member, must be engaged in rendering services to the public, in teaching, or in research in audiology, interpreting services, or speech-language pathology for at least three years ~~preceding their before~~ preceding their before appointment. Two board members must be audiologists, two must be speech-language pathologists, one must be an otolaryngologist, one must be a hearing aid specialist, one must be an interpreter for the deaf, one must be a consumer of interpreter services, and one must be a consumer.
3. Each board member shall hold office for three years and until a successor is appointed and qualified. The terms must be arranged so ~~that~~ no more than three terms expire on July first of each year. The governor shall fill ~~vacancies~~ any vacancy for an unexpired term. No person may serve more than two successive terms.
4. The board shall meet at least twice each calendar year. Special meetings may be convened at the call of the chairman or at the written request of any three board members.
5. ~~Four members of the board constitute a quorum.~~ When an application for licensure is received, one member of ~~the~~ a quorum of the board must be engaged in the profession for which a license is sought.

SECTION 6. AMENDMENT. Section 43-37-09 of the North Dakota Century Code is amended and reenacted as follows:

43-37-09. License examination.

1. A separate examination ~~must be~~ is required for licensure in speech-language pathology or audiology. Any person may be licensed in both areas if that person meets the respective qualifications of each area.
2. The speech-language pathology examination and the audiology examination are the national examinations as established by the American speech-language hearing association. The board shall maintain proof that all licensees have passed the required examination. The examination is not required for renewal of ~~licenses~~ a license except as required by board rules.
3. The interpreter for the deaf examination is required for licensure. The required examination is the national examination as established by the national association of the deaf, registry of interpreters for the deaf, or other national certifying agency recognized by the board. The board shall maintain proof that all licensees have passed the required examination. The examination is not required for renewal of a license except as required by board rules.
4. A person who has completed an interpreter training program may be issued a temporary license and has up to two years before taking the national examination and becoming certified.
5. Except as provided in subsection 4, the board may issue a temporary license to practice activities regulated by this chapter to any person who furnishes satisfactory evidence of qualifications to the board. A temporary license under this subsection may be issued for no longer than one year.

SECTION 7. AMENDMENT. Section 43-37-13 of the North Dakota Century Code is amended and reenacted as follows:

43-37-13. Suspension and revocation of license.

1. The board may refuse to issue or renew a license; or may suspend or revoke a license ~~where~~ when the licensee or applicant for license has

engaged in unprofessional conduct. ~~Such unprofessional~~ Unprofessional conduct ~~may include~~ includes:

- a. Obtaining a license by means of fraud, misrepresentation, or concealment of material facts;
 - b. Engaging in unprofessional conduct, as defined by the rules established by the board, or violating the code of ethics adopted and published by the board;
 - c. Conviction of an offense if the acts for which that person is convicted are determined by the board to have a direct bearing on ~~such~~ the applicant's or licensee's ability to serve the public in the capacity of a speech-language pathologist, interpreter for the deaf, or audiologist; or the board determines that ~~such~~ the applicant or licensee, following conviction of any other offense, is not sufficiently rehabilitated under section 12.1-33-02.1;
 - d. Violation of any order or rule adopted by the board; or
 - e. Violation of this chapter.
2. One year from the date of revocation of a license, the licensee may ~~make application~~ apply to the board for reinstatement. The board may accept or reject an application for reinstatement or may require an examination for reinstatement."

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2324, as engrossed: Agriculture Committee (Rep. Nicholas, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (12 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed SB 2324 was placed on the Sixth order on the calendar.

Page 1, line 21, after "state" insert ", and shall mail a copy to the agricultural producer"

Page 2, line 13, after the period insert "At least ten days before filing a lien, the person entitled to the lien shall mail to the agricultural producer a notice of intent to file a lien."

Page 3, line 1, after "state" insert ", and shall mail a copy to the agricultural producer"

Page 3, line 17, after the period insert "At least ten days before filing a lien, the person entitled to the lien shall mail to the agricultural producer a notice of intent to file a lien."

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2359, as engrossed: Judiciary Committee (Rep. Kretschmar, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SB 2359 was placed on the Sixth order on the calendar.

Page 1, line 2, after "marriage" insert "; and to declare an emergency"

Page 1, line 8, remove the overstrike over "~~of the gospel~~", overstrike "and" and insert immediately thereafter an underscored comma, and overstrike the second "ministers"

Page 1, line 9, after "~~gospel~~" insert "and clergy"

Page 1, after line 13 insert:

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

Renumber accordingly

REPORT OF STANDING COMMITTEE

SCR 4012, as engrossed: Judiciary Committee (Rep. Kretschmar, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO**

PASS (11 YEAS, 0 NAYS, 3 ABSENT AND NOT VOTING). Engrossed SCR 4012 was placed on the Sixth order on the calendar.

Page 1, line 6, replace "tax" with "agriculture"

Page 1, line 25, replace "tax" with "agriculture"

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2237, as engrossed: Government and Veterans Affairs Committee (Rep. Wardner, Chairman) recommends **DO PASS** (13 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SB 2237 was placed on the Fourteenth order on the calendar.

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM C. PARKER, SECRETARY)

MR. SPEAKER: The Senate has passed unchanged: HB 1039, HB 1092, HB 1117.

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM C. PARKER, SECRETARY)

MR. SPEAKER: The President has signed: HB 1079, HB 1093, HB 1186, HB 1195, HB 1223, HB 1234, HB 1302, HB 1323, HB 1332, HB 1371, HB 1384, HB 1442.

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM C. PARKER, SECRETARY)

MR. SPEAKER: The Senate has amended and subsequently failed to pass: HB 1333.

MESSAGE TO THE SENATE FROM THE HOUSE (ROY GILBREATH, CHIEF CLERK)

MADAM PRESIDENT: The House has passed unchanged: SB 2209, SB 2364, SCR 4040, SCR 4046, SCR 4047, SCR 4051.

MESSAGE TO THE SENATE FROM THE HOUSE (ROY GILBREATH, CHIEF CLERK)

MADAM PRESIDENT: The House has amended and failed to pass: SB 2380.

SIGNING OF BILLS AND RESOLUTIONS

The Speaker signed the following enrolled bills: HB 1040, HB 1098, HB 1109.

MESSAGE TO THE SENATE FROM THE HOUSE (ROY GILBREATH, CHIEF CLERK)

MADAM PRESIDENT: The Speaker has signed and your signature is respectfully requested on: HB 1040, HB 1098, HB 1109.

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM C. PARKER, SECRETARY)

MR. SPEAKER: The President has signed and your signature is respectfully requested on: SB 2001, SB 2114, SB 2138, SB 2150, SB 2217, SB 2225, SB 2248, SB 2250, SB 2261, SB 2262, SB 2264, SB 2266, SB 2295, SB 2302, SB 2327, SB 2352, SB 2357, SB 2394, SCR 4019, SCR 4020, SCR 4024, SCR 4027, SCR 4032, SCR 4033, SCR 4034, SCR 4035, SCR 4044, SCR 4050, SCR 4055.

MESSAGE TO THE SENATE FROM THE HOUSE (ROY GILBREATH, CHIEF CLERK)

MADAM PRESIDENT: The House has amended and subsequently passed: SB 2149, SB 2198, SB 2221, SB 2234, SB 2344.

DELIVERY OF ENROLLED BILLS AND RESOLUTIONS

The following bills were delivered to the Governor for his approval at the hour of 12:27 p.m., March 21, 1997: HB 1042, HB 1045, HB 1064, HB 1122, HB 1160, HB 1169, HB 1196, HB 1197, HB 1202, HB 1214, HB 1225, HB 1237, HB 1242, HB 1246, HB 1249, HB 1255, HB 1260, HB 1265, HB 1275, HB 1286, HB 1292, HB 1294, HB 1299, HB 1305, HB 1310, HB 1315, HB 1334, HB 1335, HB 1343, HB 1345, HB 1349, HB 1380, HB 1395, HB 1402, HB 1405, HB 1424, HB 1428, HB 1434, HB 1436, HB 1437.

The House stood adjourned pursuant to Representative Freier's motion.

ROY GILBREATH, Chief Clerk