

## JOURNAL OF THE SENATE

## Fifty-seventh Legislative Assembly

\* \* \* \* \*

Bismarck, April 16, 2001

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

The prayer was offered by Senator Watne.

The roll was called and all members were present except Senators Christenson and Lee.

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. Watne, Chairman)** has carefully examined the Journal of the Forty-eighth and Fiftieth Days and recommends that it be corrected as follows and when so corrected, recommends that it be approved:

Page 871, line 20, remove ", HB 1415"

Page 902, line 55, remove "HB 1415,"

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

## CONSIDERATION OF CONFERENCE COMMITTEE REPORT

**SEN. KILZER MOVED** that the conference committee report on Engrossed HB 1385 as printed on SJ page 1349 be adopted, which motion prevailed on a voice vote.

Engrossed HB 1385, as amended, was placed on the Fourteenth order.

## SECOND READING OF HOUSE BILL

**HB 1385:** A BILL for an Act to amend and reenact section 50-06-06.13 of the North Dakota Century Code, relating to treatment services for children with serious emotional disorders.

## ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 47 YEAS, 0 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bercier; Bowman; Christmann; Cook; Dever; Erbele; Espegard; Every; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kelsh; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Kroeplin; Lindaas; Lyson; Mathern, D.; Mathern, T.; Mutch; Nelson, C.; Nelson, G.; Nething; Nichols; O'Connell; Polovitz; Robinson; Schobinger; Solberg; Stenehjem; Tallackson; Thane; Tollefson; Tomac; Traynor; Trenbeath; Urlacher; Wanzek; Wardner; Watne

**ABSENT AND NOT VOTING:** Christenson; Lee

Engrossed HB 1385, as amended, passed and the title was agreed to.

\*\*\*\*\*

## CONSIDERATION OF CONFERENCE COMMITTEE REPORT

**SEN. WARDNER MOVED** that the conference committee report on Engrossed HB 1451 as printed on SJ pages 1349-1350 be adopted, which motion prevailed on a voice vote.

Engrossed HB 1451, as amended, was placed on the Fourteenth order.

## SECOND READING OF HOUSE BILL

**HB 1451:** A BILL for an Act to provide for administrative rules committee review of existing administrative rules.

## ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 31 YEAS, 16 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bowman; Christmann; Cook; Dever; Espegard; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kilzer; Klein; Kringstad; Kroeplin; Mutch; Nelson, G.; Nething; Polovitz; Schobinger; Solberg; Stenehjem; Tallackson; Thane; Tollefson; Tomac; Urlacher; Wanzek; Wardner; Watne

**NAYS:** Bercier; Erbele; Every; Kelsh; Krauter; Krebsbach; Lindaas; Lyson; Mathern, D.; Mathern, T.; Nelson, C.; Nichols; O'Connell; Robinson; Traynor; Trenbeath

**ABSENT AND NOT VOTING:** Christenson; Lee

Engrossed HB 1451, as amended, passed and the title was agreed to.

\*\*\*\*\*

#### **CONSIDERATION OF CONFERENCE COMMITTEE REPORT**

**SEN. TOLLEFSON MOVED** that the conference committee report on HB 1468 as printed on SJ page 1350 be adopted, which motion prevailed on a voice vote.

HB 1468, as amended, was placed on the Fourteenth order.

#### **SECOND READING OF HOUSE BILL**

**HB 1468:** A BILL for an Act to create and enact two new subsections to section 20.1-03-12 of the North Dakota Century Code, relating to nonresident hunting fees; to amend and reenact subsection 1 of section 20.1-03-07, section 20.1-03-07.1, and subsections 2, 7, 8, 37, 38, and 39 of section 20.1-03-12 of the North Dakota Century Code, relating to nonresident hunting and fishing licenses and fees; and to provide an effective date.

#### **MOTION**

**SEN. G. NELSON MOVED** the previous question, which motion prevailed.

#### **ROLL CALL**

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 31 YEAS, 16 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bowman; Christmann; Cook; Dever; Espegard; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kilzer; Klein; Kringstad; Kroeplin; Mutch; Nelson, G.; Nething; Polovitz; Schobinger; Solberg; Stenehjem; Tallackson; Thane; Tollefson; Tomac; Urlacher; Wanzek; Wardner; Watne

**NAYS:** Bercier; Erbele; Every; Kelsh; Krauter; Krebsbach; Lindaas; Lyson; Mathern, D.; Mathern, T.; Nelson, C.; Nichols; O'Connell; Robinson; Traynor; Trenbeath

**ABSENT AND NOT VOTING:** Christenson; Lee

Engrossed HB 1468, as amended, lost.

\*\*\*\*\*

#### **MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)**

**MR. SPEAKER:** The President has signed and your signature is respectfully requested on: SB 2001, SB 2007, SB 2008, SB 2039, SB 2054, SB 2067, SB 2177, SB 2181, SB 2251, SB 2282, SB 2287, SB 2328, SB 2397, SB 2427, SB 2449, SB 2455, SCR 4050, SCR 4051, SCR 4052.

#### **MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)**

**MR. SPEAKER:** The President has signed: HB 1058, HB 1066, HB 1119, HB 1184, HB 1189, HB 1197, HB 1245, HB 1261, HB 1267, HB 1269, HB 1319, HB 1328, HB 1457, HB 1462, HCR 3071.

#### **DELIVERY OF ENROLLED BILLS AND RESOLUTIONS**

The following bills were delivered to the Governor for approval on April 16, 2001: SB 2033, SB 2095, SB 2098, SB 2191, SB 2204, SB 2222, SB 2314, SB 2315, SB 2337, SB 2342, SB 2345, SB 2352, SB 2373, SB 2379, SB 2384, SB 2389, SB 2403, SB 2413, SB 2415, SB 2454.

#### **DELIVERY OF ENROLLED BILLS AND RESOLUTIONS**

The following resolution was delivered to the Secretary of State for filing on April 16, 2001: SCR 4020.

**MESSAGE TO THE SENATE FROM THE HOUSE (MARK L. JOHNSON, CHIEF CLERK)**

**MR. PRESIDENT:** The Speaker has signed and your signature is respectfully requested on: HB 1196.

**MESSAGE TO THE SENATE FROM THE HOUSE (MARK L. JOHNSON, CHIEF CLERK)**

**MR. PRESIDENT:** The Speaker has signed and your signature is respectfully requested on: HB 1023, HB 1142, HB 1416, HB 1442, HB 1455.

**MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)**

**MR. SPEAKER:** The Senate has adopted the conference committee report and subsequently passed: HB 1385, HB 1451.

**MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)**

**MR. SPEAKER:** The Senate has adopted the conference committee report and subsequently failed to pass: HB 1468.

**MESSAGE TO THE SENATE FROM THE HOUSE (MARK L. JOHNSON, CHIEF CLERK)**

**MR. PRESIDENT:** The House has concurred in the Senate amendments and subsequently passed: HB 1220.

**MESSAGE TO THE SENATE FROM THE HOUSE (MARK L. JOHNSON, CHIEF CLERK)**

**MR. PRESIDENT:** The Speaker has appointed as a conference committee to act with a like committee from the Senate on:

**SB 2023:** Reps. Timm; Wald; Huether

**MESSAGE TO THE SENATE FROM THE HOUSE (MARK L. JOHNSON, CHIEF CLERK)**

**MR. PRESIDENT:** The House has adopted the conference committee reports on SB 2013 and SB 2104.

**MESSAGE TO THE SENATE FROM THE HOUSE (MARK L. JOHNSON, CHIEF CLERK)**

**MR. PRESIDENT:** The House has adopted the conference committee report and subsequently passed: SB 2106, SB 2220, SB 2244, SB 2308, SB 2419.

**MESSAGE TO THE SENATE FROM THE HOUSE (MARK L. JOHNSON, CHIEF CLERK)**

**MR. PRESIDENT:** The House has adopted the conference committee report and subsequently failed to pass: SB 2291.

**MESSAGE TO THE SENATE FROM THE HOUSE (MARK L. JOHNSON, CHIEF CLERK)**

**MR. PRESIDENT:** The House has adopted the conference committee report and subsequently passed: HB 1025, HB 1099, HB 1141.

**MOTION**

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

**MOTION**

**SEN. CHRISTMANN MOVED** that the Senate be on the Fourth, Fifth, and Seventh orders of business and at the conclusion of those orders, the Senate stand adjourned until 8:30 a.m., Tuesday, April 17, 2001, which motion prevailed.

**REPORT OF CONFERENCE COMMITTEE**

**SB 2012, as engrossed:** Your conference committee (Sens. Nething, Kringstad, Tallackson and Reps. Koppelman, Carlisle, Glassheim) recommends that the **HOUSE RECEDE** from the House amendments on SJ pages 1150-1151, adopt amendments as follows, and place SB 2012 on the Seventh order:

That the House recede from its amendments as printed on pages 1157-1160 of the Senate Journal and pages 1260-1263 of the House Journal and that Engrossed Senate Bill No. 2012 be amended as follows:

Page 1, line 2, remove "and"

Page 1, line 3, after "study" insert "; to provide a contingent appropriation; and to amend and reenact section 39-06-19, subsection 1 of section 39-06.2-09, and section 39-09-02 of the North Dakota Century Code, relating to highways and operators' licenses"

Page 1, line 11, replace "121,531,562" with "118,331,562"

Page 1, line 15, replace "739,566,343" with "736,366,343"

Page 1, after line 18, insert:

**"SECTION 3. CONTINGENT APPROPRIATION - GENERAL LICENSE PLATE ISSUE.** If the fifty-seventh legislative assembly approves additional revenues specifically identified for the purpose of providing funding for the additional cost of a general license plate issue, there is appropriated out of any moneys in the highway fund in the state treasury, not otherwise appropriated, the sum of \$3,200,000, to the department of transportation for the purpose of defraying the expenses of a general license plate issue, for the biennium beginning July 1, 2001, and ending June 30, 2003.

**SECTION 4. AMENDMENT.** Section 39-06-19 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**39-06-19. Expiration of license - Renewal.**

1. Every operator's license issued under this chapter expires and is renewed according to this section. The expiration date of an operator's license for ~~every~~ a person whose birth occurred in a year ending in an odd numeral is twelve midnight on the anniversary of the birthday in the second subsequent year ending in an odd numeral. The expiration date of an operator's license for ~~every~~ a person whose birth occurred in a year ending in an even numeral is twelve midnight on the anniversary of the birthday in the second subsequent year ending in an even numeral.
2. If the licensee has reached the age of eighteen, and desires reissuance of a license with the distinctive background for licensees at least the age of eighteen and under the age of twenty-one, the applicant may apply at any time for a replacement license. If the licensee has reached the age of twenty-one and desires reissuance of a license without the distinctive color background required by section 39-06-14, the applicant may apply at any time for a replacement license. ~~In all other cases,~~
3. ~~An applicant for renewal must present the application with fee for renewal of license must be presented to the director not prior to before ten months before the expiration date of the operator's license. The director may require an examination of an applicant as upon an original application. After the initial application for a license in this state, the director may not require an applicant for renewal, replacement, or a substitute to provide a social security card unless the applicant is changing the distinguishing number on the license to the applicant's social security number. The director may not renew an operator's license if the license has been suspended under section 14-08.1-07. Upon the recommendation of the court, the director may issue a temporary permit to the licensee under section 39-06.1-11 if the temporary permit is necessary for the licensee to work and the court has determined the licensee is making a good-faith effort to comply with the child support order.~~
4. Every application for renewal of a license by an applicant must be accompanied by a certificate of examination from either the driver licensing or examining authorities or a physician or an optometrist, licensed in this or another state, containing a statement as to the corrected and uncorrected vision of the applicant. The director shall provide visual examination equipment at each location where a license may be renewed. The initial application for a motor vehicle operator's license may be accompanied by a statement of examination from a licensed physician or an optometrist, stating the corrected and uncorrected vision of the applicant, in lieu of the department examination. ~~Such~~ This examination must be within six months of the driver license application.
5. Every person submitting an application and fee for renewal of license one year or more after the expiration of a license, except an applicant whose military service has terminated less than thirty days prior to such application, must be treated as a new driver.
6. The fee for renewal or replacement of an operator's license is ten dollars.

**SECTION 5. AMENDMENT.** Subsection 1 of section 39-06.2-09 of the North Dakota Century Code is amended and reenacted as follows:

1. Content of license. The commercial driver's license must be marked "commercial driver's license", and must be, to the maximum extent practicable, tamper proof. It must include the following information:
  - a. The name and residential address of the person;
  - b. The person's color photograph;
  - c. A physical description of the person, including sex, height, weight, and eye and hair color;
  - d. Date of birth;
  - e. ~~The~~ A distinguishing number assigned to the person which upon request may be a number different from the person's social security number;
  - f. The person's signature;
  - g. The class or type of commercial motor vehicle or vehicles which the person is authorized to drive together with any endorsements or restrictions;
  - h. The name of this state; and
  - i. The dates between which the license is valid.

**SECTION 6. AMENDMENT.** Section 39-09-02 of the North Dakota Century Code is amended and reenacted as follows:

**39-09-02. Speed limitations.**

1. Subject to the provisions of section 39-09-01 and except in those instances where a lower speed is specified in this chapter, it presumably is lawful for the driver of a vehicle to drive the same at a speed not exceeding:
  - a. Twenty miles [32.19 kilometers] an hour when approaching within fifty feet [15.24 meters] of a grade crossing of any steam, electric, or street railway when the driver's view is obstructed. A driver's view is deemed to be obstructed when at any time during the last two hundred feet [60.96 meters] of the driver's approach to such crossing, the driver does not have a clear and uninterrupted view of such railway crossing and of any traffic on such railway for a distance of four hundred feet [121.92 meters] in each direction from such crossing.
  - b. Twenty miles [32.19 kilometers] an hour when passing a school during school recess or while children are going to or leaving school during opening or closing hours.
  - c. Twenty miles [32.19 kilometers] an hour when approaching within fifty feet [15.24 meters] and in traversing an intersection of highways when the driver's view is obstructed. A driver's view is deemed to be obstructed when at any time during the last fifty feet [15.24 meters] of the driver's approach to such intersection, the driver does not have a clear and uninterrupted view of such intersection and of the traffic upon all of the highways entering such intersection for a distance of two hundred feet [60.96 meters] from such intersection.
  - d. Twenty miles [32.19 kilometers] an hour when the driver's view of the highway ahead is obstructed within a distance of one hundred feet [30.48 meters].
  - e. Twenty-five miles [40.23 kilometers] an hour on any highway in a business district or in a residence district or in a public park, unless a different speed is designated and posted by local authorities.
  - f. Fifty-five miles [88.51 kilometers] an hour on gravel, dirt, or loose surface highways, and on paved two-lane highways if there is no speed limit posted or if within the time period of one-half hour after

sunset to one-half hour before sunrise, unless otherwise permitted, restricted, or required by conditions.

- g. Sixty-five miles [104.61 kilometers] an hour on paved two-lane highways if within the time period of one-half hour before sunrise to one-half hour after sunset and if posted for that speed, and on paved and divided multilane highways, unless otherwise permitted, restricted, or required by conditions.
  - h. ~~Seventy~~ Seventy-five miles [~~112.65~~ 120.70 kilometers] an hour on access-controlled, paved and divided, multilane interstate highways, unless otherwise permitted, restricted, or required by conditions.
2. The director may designate and post special areas of state highways where lower speed limits apply. If there is a violation of a highway construction zone speed limit, where within that zone individuals engaged in construction were present at the time of the violation, then the fees required for a noncriminal disposition are forty dollars for one through ten miles per hour over the posted speed; and forty dollars, plus one dollar for each additional mile per hour over ten miles per hour over the limit. However, if a greater fee would be applicable under section 39-06.1-06, then that fee is required for the noncriminal disposition. The highway construction zone speed limit posted sign must state "Minimum Fee \$40".
  3. Except as provided by law, it is unlawful for any person to drive a vehicle upon a highway at a speed that is unsafe or at a speed exceeding the speed limit prescribed by law or established pursuant to law.
  4. In charging a violation of the provisions of this section, the complaint must specify the speed at which the defendant is alleged to have driven and the speed which this section prescribes is prima facie lawful at the time and place of the alleged offense.
  5. ~~Repealed by S.L. 1975, ch. 346, § 3.~~

Renumber accordingly

#### STATEMENT OF PURPOSE OF AMENDMENT:

#### Senate Bill No. 2012 - Department of Transportation - Conference Committee Action

This amendment removes the \$3.2 million for the general license plate issue from the operating expenses line item and adds a contingent appropriation section appropriating the \$3.2 million only if the 2001 Legislative Assembly specifically identifies additional revenues to provide for the cost of the general license plate issue, the same as the House version.

Sections are added that:

- Increase the speed limit on the interstate to 75 miles per hour, the same as the House version.
- Allow individuals to request a unique identifying number other than their Social Security number for their commercial driver's license number, the same as the House version.
- Provide that after the initial application for a driver's license, an individual does not need to provide the individual's Social Security number when renewing the individual's driver's license unless the individual is changing from a distinguishing number to the individual's Social Security number, the same as the House version.

The conference committee did not include provisions increasing nighttime speed limits as included in the House version.

Engrossed SB 2012 was placed on the Seventh order of business on the calendar.

**REPORT OF CONFERENCE COMMITTEE**

**SB 2285, as engrossed:** Your conference committee (Sens. Fischer, Traynor, Every and Reps. Nelson, DeKrey, Solberg) recommends that the **HOUSE RECEDE** from the House amendments on SJ page 1235, adopt amendments as follows, and place SB 2285 on the Seventh order:

That the House recede from its amendments as printed on page 1235 of the Senate Journal and page 1363 of the House Journal and that Engrossed Senate Bill No. 2285 be amended as follows:

Page 1, line 3, remove "and"

Page 1, line 4, after "appropriation" insert "; and to provide an effective date"

Page 1, line 12, after the period insert "The state water commission is authorized five additional full-time equivalent positions to implement this Act."

**SECTION 3. EFFECTIVE DATE.** This Act becomes effective on the date the state engineer certifies to the governor that a program has been designed to effectively assume responsibility for the section 404 program of the Clean Water Act and the state water commission is ready to assume those responsibilities. The governor shall notify the secretary of state and the legislative council of the effective date of this Act."

Renumber accordingly

Engrossed SB 2285 was placed on the Seventh order of business on the calendar.

**REPORT OF CONFERENCE COMMITTEE**

**HB 1025, as engrossed:** Your conference committee (Sens. Schobinger, Kringstad, Tallackson and Reps. Carlisle, Koppelman, Huether) recommends that the **HOUSE ACCEDE** to the Senate amendments on HJ pages 1225-1226 and place HB 1025 on the Seventh order.

Engrossed HB 1025 was placed on the Seventh order of business on the calendar.

**REPORT OF CONFERENCE COMMITTEE**

**HB 1099, as engrossed:** Your conference committee (Sens. Wardner, Krebsbach, C. Nelson and Reps. Grande, Skarphol, Kroeber) recommends that the **SENATE RECEDE** from the Senate amendments on HJ page 887, adopt amendments as follows, and place HB 1099 on the Seventh order:

That the Senate recede from its amendments as printed on page 887 of the House Journal and page 759 of the Senate Journal and that Engrossed House Bill No. 1099 be amended as follows:

Page 5, line 29, after "of" insert "**employee**"

Page 5, line 30, after "claims" insert ", employee premium payments made, salary reduction amounts taken, history of any available insurance coverage purchased," and after "amounts" insert "and types of insurance"

Page 6, after line 9, insert:

"5. If involved in a dissolution proceeding, the member's spouse or former spouse, that person's legal representative, and the judge presiding over the member's dissolution proceeding."

Renumber accordingly

Engrossed HB 1099 was placed on the Seventh order of business on the calendar.

**REPORT OF CONFERENCE COMMITTEE**

**HB 1141, as reengrossed:** Your conference committee (Sens. Cook, Flakoll, O'Connell and Reps. R. Kelsch, Haas, Hanson) recommends that the **HOUSE ACCEDE** to the Senate amendments on HJ pages 1095-1097 and place HB 1141 on the Seventh order.

Reengrossed HB 1141 was placed on the Seventh order of business on the calendar.

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

**WILLIAM R. HORTON, Secretary**