

## JOURNAL OF THE SENATE

## Fifty-eighth Legislative Assembly

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Bismarck, March 26, 2003

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

The prayer was offered by Vice President Colleen Ressler of the North Dakota Chaplain's Association, working in Spiritual Care, St. Vincent's Care Center, Bismarck.

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

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. Espgaard, Chairman)** has carefully examined the Journal of the Fifty-third Day and recommends that it be corrected as follows and when so corrected, recommends that it be approved:

Page 900, replace lines 21 through 24 with the following:

**"HB 1309:** A BILL for an Act to create and enact a new section to chapter 57-38 of the North Dakota Century Code, relating to a corporate income tax credit for a portion of the cost of retrofitting a facility for producing or blending diesel fuel containing biodiesel fuel; to amend and reenact sections 24-02-01.5, 57-43.2-01, and 57-43.2-02 of the North Dakota Century Code, relating to a special fuels tax reduction for fuel containing biodiesel; and to provide an effective date."

Page 901, line 14, remove "amended"

Page 902, line 15, remove "amended"

Page 903, remove lines 5 through 12

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

**MOTION**

**SEN. CHRISTMANN MOVED** that Senate Rule 329 (4) be further amended to read "fifty-fifth" in place of "fifty-third", thereby extending the deadline for rereferral of House bills to the **Appropriations Committee**. The motion prevailed.

**MOTION**

**SEN. CHRISTMANN MOVED** that HB 1250, which is on the Sixth order, be laid over two legislative days, and HB 1255, HB 1372, HB 1394, and HB 1387, which are on the Fourteenth order, be laid over one legislative day, which motion prevailed.

**CONSIDERATION OF AMENDMENTS**

**HB 1047, as engrossed: SEN. TRENBEATH (Transportation Committee) MOVED** that the amendments on SJ pages 909-910 be adopted and then be **REREFERRED** to the **Appropriations Committee** with **DO PASS**, which motion prevailed.

**CONSIDERATION OF AMENDMENTS**

**HB 1092, as engrossed: SEN. KLEIN (Industry, Business and Labor Committee) MOVED** that the amendments on SJ page 910 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

**CONSIDERATION OF AMENDMENTS**

**HB 1116, as engrossed: SEN. NETHING (Industry, Business and Labor Committee) MOVED** that the amendments on SJ pages 910-911 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

**CONSIDERATION OF AMENDMENTS**

**HB 1123, as engrossed: SEN. ERBELE (Human Services Committee) MOVED** that the amendments on SJ page 911 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

**CONSIDERATION OF AMENDMENTS**

**HB 1166: SEN. CHRISTENSON (Education Committee) MOVED** that the amendments on SJ page 911 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

**CONSIDERATION OF AMENDMENTS**

**HB 1221, as engrossed: SEN. BROWN (Human Services Committee) MOVED** that the amendments on SJ pages 911-912 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

**CONSIDERATION OF AMENDMENTS**

**HB 1231, as engrossed: SEN. KREBSBACH (Industry, Business and Labor Committee) MOVED** that the amendments on SJ page 912 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

**CONSIDERATION OF AMENDMENTS**

**HB 1236: SEN. MUTCH (Industry, Business and Labor Committee) MOVED** that the amendments on SJ page 912 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

**CONSIDERATION OF AMENDMENTS**

**HB 1245, as engrossed: SEN. J. LEE (Human Services Committee) MOVED** that the amendments on SJ pages 912-913 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

**CONSIDERATION OF AMENDMENTS**

**HB 1275: SEN. BROWN (Government and Veterans Affairs Committee) MOVED** that the amendments on SJ page 914 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

**CONSIDERATION OF AMENDMENTS**

**HB 1427, as engrossed: SEN. EVERY (Industry, Business and Labor Committee) MOVED** that the amendments on SJ page 915 be adopted and then be placed on the Fourteenth order with **DO NOT PASS**, which motion prevailed.

**CONSIDERATION OF AMENDMENTS**

**HB 1430, as engrossed: SEN. J. LEE (Human Services Committee) MOVED** that the amendments on SJ pages 915-918 be adopted with **DO PASS**, which motion prevailed.

**ANNOUNCEMENT**

**PRESIDENT DALRYMPLE ANNOUNCED** that Engrossed HB 1430, as amended, would be rereferred to the **Appropriations Committee**. Pursuant to the President's announcement, Engrossed HB 1430, as amended, was rereferred.

**CONSIDERATION OF AMENDMENTS**

**HB 1469, as engrossed: SEN. BROWN (Human Services Committee) MOVED** that the amendments on SJ pages 918-919 be and then be placed on the Fourteenth order with **DO PASS**.

**REQUEST**

**SEN. KRAUTER REQUESTED** that the Senate divide the amendments to Engrossed HB 1469, which request was granted on a voice vote.

**DIVISION A:** Page 1, line 16, remove "home health care coverage."

**DIVISION B:** The remainder of the proposed amendments.

**REQUEST**

**SEN. KRAUTER REQUESTED** a recorded roll call vote on Divisions A and B of the proposed amendments to Engrossed HB 1469, which request was granted.

**ROLL CALL**

The question being the adoption of Division A of the proposed amendments to Engrossed HB 1469, the roll was called and there were 32 YEAS, 14 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bowman; Brown; Christmann; Cook; Dever; Erbele; Espegard; Fischer; Flakoll; Freborg; Grindberg; Holmberg; Kilzer; Klein; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lyson; Mutch; Nething; Nichols; Polovitz; Schobinger; Stenehjem; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

**NAYS:** Christenson; Every; Fairfield; Heitkamp; Krauter; Lindaas; Mathern; Nelson; O'Connell; Robinson; Seymour; Syverson; Tallackson; Taylor

**ABSENT AND NOT VOTING:** Bercier

Division A of the proposed amendments to Engrossed HB 1469 was adopted.

#### ROLL CALL

The question being the adoption of Division B of the proposed amendments to Engrossed HB 1469, the roll was called and there were 45 YEAS, 1 NAY, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bowman; Brown; Christenson; Christmann; Cook; Dever; Erbele; Espegard; Every; Fairfield; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Lyson; Mutch; Nelson; Nething; Nichols; O'Connell; Polovitz; Robinson; Schobinger; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

**NAYS:** Mathern

**ABSENT AND NOT VOTING:** Bercier

Division B of the proposed amendments to Engrossed HB 1469 was adopted.

Therefore, the question being the adoption of the proposed amendments which include Division A and Division B, the proposed amendments to Engrossed HB 1469 were adopted on a voice vote.

Engrossed HB 1469, as amended, was placed on the Fourteenth order.

#### SECOND READING OF HOUSE BILL

**HB 1416:** A BILL for an Act to amend and reenact section 55-08-05 of the North Dakota Century Code, relating to alcoholic beverage sales on state parks and recreation department property.

#### 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 34 YEAS, 12 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Brown; Christmann; Cook; Dever; Espegard; Every; Fairfield; Fischer; Freborg; Grindberg; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Mutch; Nelson; Nething; O'Connell; Robinson; Schobinger; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Thane; Traynor; Urlacher

**NAYS:** Bowman; Christenson; Erbele; Flakoll; Lindaas; Lyson; Mathern; Nichols; Polovitz; Tollefson; Trenbeath; Wardner

**ABSENT AND NOT VOTING:** Bercier

Engrossed HB 1416, as amended, passed and the title was agreed to.

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#### SECOND READING OF HOUSE BILL

**HB 1424:** A BILL for an Act to prohibit human cloning; and to provide a penalty.

#### ROLL CALL

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

**YEAS:** Andrist; Bowman; Brown; Christenson; Christmann; Cook; Dever; Erbele; Espegard; Every; Fairfield; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kilzer; Klein;

Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Mutch; Nelson; Nething; Nichols; O'Connell; Polovitz; Robinson; Schobinger; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

**ABSENT AND NOT VOTING:** Bercier

Engrossed HB 1424 passed and the title was agreed to.

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### SECOND READING OF HOUSE BILL

**HB 1475:** A BILL for an Act to provide for a legislative council study of the feasibility and desirability of a Bank of North Dakota credit card program.

### 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 13 YEAS, 33 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Fairfield; Fischer; Flakoll; Heitkamp; Krauter; Lee, J.; Lindaas; Mathern; Nelson; O'Connell; Robinson; Tallackson; Trenbeath

**NAYS:** Andrist; Bowman; Brown; Christenson; Christmann; Cook; Dever; Erbele; Espegard; Every; Freborg; Grindberg; Holmberg; Kilzer; Klein; Krebsbach; Kringstad; Lee, G.; Lyson; Mutch; Nething; Nichols; Polovitz; Schobinger; Seymour; Stenehjem; Syverson; Taylor; Thane; Tollefson; Traynor; Urlacher; Wardner

**ABSENT AND NOT VOTING:** Bercier

Engrossed HB 1475 lost.

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### SECOND READING OF HOUSE BILL

**HB 1161:** A BILL for an Act to amend and reenact section 39-06-32, subsection 1 of section 39-08-01, sections 39-20-03.1 and 39-20-03.2, subsection 1 of section 39-20-04.1, subsections 2 and 5 of section 39-20-05, and sections 39-20-07 and 39-20-09 of the North Dakota Century Code, relating to the level of alcohol concentration prohibited for motor vehicle operators.

### 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 39 YEAS, 7 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bowman; Brown; Christenson; Erbele; Espegard; Every; Fairfield; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kilzer; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Mutch; Nelson; Nething; Nichols; O'Connell; Polovitz; Robinson; Seymour; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Urlacher; Wardner

**NAYS:** Christmann; Cook; Dever; Klein; Schobinger; Stenehjem; Trenbeath

**ABSENT AND NOT VOTING:** Bercier

HB 1161 passed and the title was agreed to.

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### SECOND READING OF HOUSE BILL

**HB 1274:** A BILL for an Act to amend and reenact section 53-06.1-07.2 of the North Dakota Century Code, relating to conduct of poker under the games of chance laws.

### 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 0 YEAS, 46 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**NAYS:** Andrist; Bowman; Brown; Christenson; Christmann; Cook; Dever; Erbele; Espegard; Every; Fairfield; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Mutch; Nelson; Nething; Nichols; O'Connell; Polovitz; Robinson; Schobinger; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

**ABSENT AND NOT VOTING:** Bercier

Engrossed HB 1274 lost.

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#### SECOND READING OF HOUSE BILL

**HB 1371:** A BILL for an Act to amend and reenact section 26.1-26.6-08 of the North Dakota Century Code, relating to the maximum commission or fee of a bail bondsman.

#### 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 44 YEAS, 2 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bowman; Brown; Christenson; Christmann; Cook; Dever; Erbele; Espegard; Every; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Mutch; Nelson; Nething; Nichols; Polovitz; Robinson; Schobinger; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

**NAYS:** Fairfield; O'Connell

**ABSENT AND NOT VOTING:** Bercier

Engrossed HB 1371 passed and the title was agreed to.

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#### SECOND READING OF HOUSE BILL

**HB 1404:** A BILL for an Act to amend and reenact subsection 1 of section 53-06.1-14 of the North Dakota Century Code, relating to the license fee for pull tab dispensing device manufacturers.

#### 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 40 YEAS, 6 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Bowman; Brown; Christenson; Christmann; Dever; Espegard; Every; Fairfield; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, J.; Lindaas; Lyson; Mathern; Mutch; Nelson; Nichols; O'Connell; Polovitz; Robinson; Schobinger; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

**NAYS:** Andrist; Cook; Erbele; Lee, G.; Nething; Thane

**ABSENT AND NOT VOTING:** Bercier

Engrossed HB 1404 passed and the title was agreed to.

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#### SECOND READING OF HOUSE CONCURRENT RESOLUTION

**HCR 3053:** A concurrent resolution directing the Legislative Council to study the state's emergency management system, the impact of federal emergency reorganization on the state's emergency operations plan, and the emergency management preparedness of state agencies and local governments.

The question being on the final adoption of the amended resolution, which has been read, and has committee recommendation of DO PASS.

Engrossed HCR 3053, as amended, was declared adopted, and the title was agreed to on a voice vote.

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#### **SECOND READING OF HOUSE CONCURRENT RESOLUTION**

**HCR 3027:** A concurrent resolution urging the Superintendent of Public Instruction, all North Dakota school district superintendents, and the boards of all North Dakota school districts to work with local, state, and federal military and veterans' organizations to observe and promote Veterans Day by developing and disseminating to students in the elementary and secondary schools of this state educational materials that strengthen students' awareness of the contributions and sacrifices made by veterans, proper flag etiquette, and the continued necessity of participation in the armed services so that freedom can be enjoyed by everyone.

The question being on the final adoption of the amended resolution, which has been read, and has committee recommendation of DO PASS.

Engrossed HCR 3027, as amended, was declared adopted, and the title was agreed to on a voice vote.

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#### **SECOND READING OF HOUSE CONCURRENT RESOLUTION**

**HCR 3040:** A concurrent resolution urging the President of the United States, the Secretary of the Army, and the United States Army Corps of Engineers to adopt and implement an updated Missouri River Master Water Control Manual that gives fair consideration to the substantial recreation values present on Lake Sakakawea, Lake Oahe, and the Missouri River in North Dakota.

The question being on the final adoption of the amended resolution, which has been read, and has committee recommendation of DO PASS.

HCR 3040, as amended, was declared adopted, and the title was agreed to on a voice vote.

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#### **SECOND READING OF HOUSE CONCURRENT RESOLUTION**

**HCR 3008:** A concurrent resolution directing the Legislative Council to study the use of electronic home detention for nonviolent offenders.

The question being on the final adoption of the resolution, which has been read, and has committee recommendation of DO PASS.

HCR 3008 was declared adopted, and the title was agreed to on a voice vote.

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#### **SECOND READING OF HOUSE CONCURRENT RESOLUTION**

**HCR 3041:** A concurrent resolution urging the President of the United States, Secretary of the Army, and the United States Army Corps of Engineers to improve, rehabilitate, and repair visitor facilities, event sites, and other areas within their jurisdiction in North Dakota expected to experience significant increases in visitation as a result of the bicentennial commemoration of the Lewis and Clark Expedition.

The question being on the final adoption of the amended resolution, which has been read, and has committee recommendation of DO PASS.

Engrossed HCR 3041, as amended, was declared adopted, and the title was agreed to on a voice vote.

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#### **SECOND READING OF HOUSE CONCURRENT RESOLUTION**

**HCR 3023:** A concurrent resolution directing the Legislative Council to study the desirability and feasibility of establishing a regional dental school in North Dakota within the North Dakota University System and in conjunction with the school of dentistry at the University of Minnesota.

The question being on the final adoption of the resolution, which has been read, and has committee recommendation of DO PASS.

Engrossed HCR 3023 was declared adopted, and the title was agreed to on a voice vote.

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#### **SECOND READING OF HOUSE CONCURRENT RESOLUTION**

**HCR 3055:** A concurrent resolution directing the Legislative Council to study the patterns of migration from rural to urban areas experienced by this state and by other Midwestern states and explore various opportunities for revitalizing and strengthening rural communities, including new initiatives and reforms of existing policies, so that our rural communities can attract and be home to citizens of all ages.

The question being on the final adoption of the resolution, which has been read, and has committee recommendation of DO PASS.

HCR 3055 was declared adopted, and the title was agreed to on a voice vote.

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#### **SECOND READING OF HOUSE CONCURRENT RESOLUTION**

**HCR 3056:** A concurrent resolution directing the Legislative Council to study whether this state is experiencing a medical insurance crisis that impacts the availability and affordability of liability insurance for medical providers and medical facilities, including a study of methods of improving the availability and affordability of liability insurance and the feasibility of allowing medical providers and medical facilities to participate in an insurance reserve fund managed by the North Dakota Insurance Reserve Fund or other like entity.

The question being on the final adoption of the resolution, which has been read, and has committee recommendation of DO PASS.

Engrossed HCR 3056 was declared adopted, and the title was agreed to on a voice vote.

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#### **SECOND READING OF HOUSE CONCURRENT RESOLUTION**

**HCR 3063:** A concurrent resolution directing the Legislative Council to study the feasibility and desirability of establishing an exchange program for emerging leaders.

The question being on the final adoption of the resolution, which has been read, and has committee recommendation of DO PASS.

HCR 3063 was declared adopted, and the title was agreed to on a voice vote.

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#### **SECOND READING OF HOUSE CONCURRENT RESOLUTION**

**HCR 3076:** A concurrent resolution urging Congress to recognize the meritorious aspects and the successes of the Head Start program, maintain funding at the highest possible level, and reject any proposal to move Head Start from the Department of Health and Human Services to the Department of Education or to limit the scope of Head Start.

The question being on the final adoption of the resolution, which has been read, and has committee recommendation of DO PASS.

HCR 3076 was declared adopted, and the title was agreed to on a voice vote.

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#### **COMMUNICATION FROM GOVERNOR JOHN HOEVEN**

This is to inform you that on March 26, 2003, I have signed the following: SB 2057, SB 2059, SB 2068, SB 2070, SB 2074, SB 2155, SB 2168, SB 2191, SB 2195, SB 2200, SB 2207, SB 2212, SB 2220, SB 2268, SB 2271, SB 2274, SB 2281, SB 2298, SB 2329, SB 2342, SB 2344, SB 2347, SB 2359, SB 2365, SB 2372, SB 2378, SB 2390, SB 2393, and SB 2414.

#### **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 2196.

**MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)**  
**MR. SPEAKER:** The President has signed: HB 1105.

**MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)**  
**MR. SPEAKER:** The President has signed: HCR 3073.

**MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)**  
**MR. SPEAKER:** The President has signed: HB 1052, HB 1056, HB 1062, HB 1073, HB 1082, HB 1101, HB 1168, HB 1195, HB 1200, HB 1215, HB 1227, HB 1235, HB 1237, HB 1239, HB 1249, HB 1252, HB 1261, HB 1268, HB 1277, HB 1316, HB 1322, HB 1331, HB 1336, HB 1382, HB 1410, HB 1498, HCR 3015, HCR 3019, HCR 3020, HCR 3025, HCR 3028, HCR 3031, HCR 3032, HCR 3036, HCR 3042, HCR 3050, HCR 3052, HCR 3054, HCR 3060, HCR 3072.

**MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)**  
**MR. SPEAKER:** The President has signed: HB 1238, HB 1263, HB 1299, HB 1423, HCR 3038, HCR 3048, HCR 3062, HCR 3064, HCR 3075.

**MESSAGE TO THE SENATE FROM THE HOUSE (BRADLEY C. FAY, CHIEF CLERK)**  
**MR. PRESIDENT:** The House has amended and subsequently passed: SB 2160, SB 2245, SB 2246.

**HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2160**

In lieu of the amendments adopted by the House as printed on pages 954 and 955 of the House Journal, Engrossed Senate Bill No. 2160 is amended as follows:

Page 1, line 2, replace "two new subsections to section 34-15-03" with "a new section to chapter 34-15"

Page 1, line 6, after the second comma insert "and"

Page 1, line 7, remove ", and subsections 2 and 3 of section 34-15-01"

Page 1, line 9, replace "and" with "to provide for a report;" and after "date" insert "; and to provide an expiration date"

Page 5, line 13, replace "health" with ":

(1) Health"

Page 5, line 17, after the underscored semicolon insert "or

(2) A basic group health benefit plan approved under section 26.1-36.3-08;"

Page 10, line 11, replace "five hundred" with "one thousand"

Page 11, replace lines 24 through 31 with:

**"SECTION 12.** A new section to chapter 34-15 of the North Dakota Century Code is created and enacted as follows:

Reporting of patronage distributions. A person who makes a distribution of funds to a patron for which the person was required to file a copy of a 1099-PATR informational form shall furnish a report to the directory of new hires in the same manner that an employer reports the hiring of an employee under this chapter. A patron is deemed to be hired under this section on the date of the distribution or the date the dividend is declared, whichever occurs first. A person required to furnish a report under this section is subject to the same duties and responsibilities as an employer under this chapter."

Page 12, remove lines 1 through 22

Page 12, after line 31, insert:

**"SECTION 14. DEPARTMENT OF HUMAN SERVICES - FUNDING FOR CHILD SUPPORT ENFORCEMENT SERVICES - REPORT TO FIFTY-NINTH LEGISLATIVE ASSEMBLY.** The department of human services shall prepare and present a report to the appropriations committees of the fifty-ninth legislative assembly

on the department's use of any funds appropriated to the department under section 13 of this Act during the biennium beginning July 1, 2003, and ending June 30, 2005."

Page 13, line 2, replace "the effective date of this Act" with "January 1, 2005"

Page 13, after line 2, insert:

**"SECTION 16. EXPIRATION DATE.** Section 13 of this Act is effective through June 30, 2005, and after that date is ineffective."

Renumber accordingly

**HOUSE AMENDMENTS TO SENATE BILL NO. 2245**

Page 1, line 9, replace "two" with "twenty-five"

Renumber accordingly

**HOUSE AMENDMENTS TO SENATE BILL NO. 2246**

Page 2, line 25, replace "five" with "two"

Page 2, line 27, after the underscored period insert "Any damages awarded under this subsection must be reduced by the amount of any late fees for the same payment which have been collected by the public authority under section 4 of this Act."

Renumber accordingly

**MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)**  
**MR. SPEAKER:** The Senate has passed unchanged: HB 1371, HB 1404, HB 1424, HCR 3008, HCR 3023, HCR 3055, HCR 3056, HCR 3063, HCR 3076.

**MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)**  
**MR. SPEAKER:** The Senate has amended and subsequently passed: HB 1416, HCR 3027, HCR 3040, HCR 3041, HCR 3053.

**MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)**  
**MR. SPEAKER:** The Senate has failed to pass: HB 1274, HB 1475.

**MOTION**

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

**MOTION**

**SEN. CHRISTMANN MOVED** that the Senate be on the Fourth, Fifth, Seventh, and Thirteenth orders of business and at the conclusion of those orders, the Senate stand adjourned until 1:00 p.m., Thursday, March 27, 2003, which motion prevailed.

**REPORT OF STANDING COMMITTEE**

**HB 1050, as engrossed and amended: Appropriations Committee (Sen. Holmberg, Chairman)** recommends **BE PLACED ON THE CALENDAR WITHOUT RECOMMENDATION** (10 YEAS, 4 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1050, as amended, was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1058: Political Subdivisions Committee (Sen. Cook, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1058 was placed on the Sixth order on the calendar.

Page 1, line 10, overstrike "ten" and insert immediately thereafter "seven"

Page 1, line 24, after "law" insert "or the taxing district may elect to apply subsection 5 to determine its general fund levy limitation"

Page 2, after line 4, insert:

"5. A taxing district that used this section to determine its general fund levy for 2001 or 2002 may use the amount it intended to levy in the 2000 tax year as its "base year" under section 57-15-01.1 or as its "prior school year" under section 57-15-14.

**SECTION 2. EFFECTIVE DATE - EXPIRATION DATE.** This Act is effective for taxable years beginning after December 31, 2002, and before December 31, 2008, and is thereafter ineffective."

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**HB 1088, as reengrossed and amended: Appropriations Committee (Sen. Holmberg, Chairman)** recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Reengrossed HB 1088, as amended, was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1190, as engrossed: Industry, Business and Labor Committee (Sen. Mutch, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1190 was placed on the Sixth order on the calendar.

Page 1, line 10, after "otherwise" insert "or the insurance company is found to have acted in bad faith"

Page 1, line 17, after "otherwise" insert "or the insurance company is found to have acted in bad faith"

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**HB 1207, as engrossed: Industry, Business and Labor Committee (Sen. Mutch, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1207 was placed on the Sixth order on the calendar.

Page 6, line 11, remove "use eminent domain proceedings"

Page 6, line 17, remove "eminent domain proceedings"

Page 7, remove lines 3 through 16

Page 7, line 17, replace "11-36-10" with "11-36-09"

Page 7, line 18, replace "11-36-14" with "11-36-13"

Page 7, line 28, replace "11-36-11" with "11-36-10"

Page 10, line 5, replace "11-36-12" with "11-36-11"

Page 10, line 22, replace "11-36-14" with "11-36-13"

Page 10, line 30, replace "11-36-13" with "11-36-12"

Page 11, line 6, replace "11-36-14" with "11-36-13"

Page 11, line 14, replace "11-36-15" with "11-36-14"

Page 11, line 23, replace "11-36-11" with "11-36-10"

Page 11, line 27, replace "11-36-16" with "11-36-15"

Page 11, line 29, remove "already"

Page 11, line 30, replace "11-36-17" with "11-36-16"

Page 13, line 18, remove "Eminent domain proceedings under this section may be instituted by the joint"

Page 13, remove lines 19 through 23

Page 13, line 24, remove "d."

Page 13, line 28, replace "11-36-12" with "11-36-11"

Page 13, line 29, replace "e." with "d."

Page 13, line 30, replace "11-36-12" with "11-36-11"

Page 14, line 13, replace "11-36-18" with "11-36-17"

Page 14, line 22, replace "11-36-19" with "11-36-18"

Page 14, line 26, replace "11-36-20" with "11-36-19"

Page 15, line 25, replace "11-36-21" with "11-36-20"

Page 16, line 4, remove "The adjoining state or public entity has the"

Page 16, remove lines 5 through 9

Page 16, line 13, replace "11-36-22" with "11-36-21"

Page 16, line 16, replace "11-36-23" with "11-36-22"

Page 16, line 22, replace "11-36-16" with "11-36-15"

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**HB 1278, as engrossed: Political Subdivisions Committee (Sen. Cook, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1278 was placed on the Sixth order on the calendar.

Page 1, line 9, remove "or section line"

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**HB 1294: Education Committee (Sen. Freborg, Chairman)** recommends **BE PLACED ON THE CALENDAR WITHOUT RECOMMENDATION** (4 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). HB 1294 was placed on the Fourteenth order on the calendar.

#### REPORT OF STANDING COMMITTEE

**HB 1301, as engrossed: Judiciary Committee (Sen. Traynor, Chairman)** recommends **DO PASS** (3 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1301 was placed on the Fourteenth order on the calendar.

#### REPORT OF STANDING COMMITTEE

**HB 1312: Political Subdivisions Committee (Sen. Cook, Chairman)** recommends **DO NOT PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1312 was placed on the Fourteenth order on the calendar.

#### REPORT OF STANDING COMMITTEE

**HB 1325, as engrossed: Education Committee (Sen. Freborg, Chairman)** recommends **DO PASS** (4 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1325 was placed on the Fourteenth order on the calendar.

#### REPORT OF STANDING COMMITTEE

**HB 1351, as engrossed: Judiciary Committee (Sen. Traynor, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1351 was placed on the Sixth order on the calendar.

Page 1, line 16, after "19-03.1-01" insert ", except the term does not include less than one-half ounce of marijuana"

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**HB 1352, as engrossed: Judiciary Committee (Sen. Traynor, Chairman)** recommends **DO PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1352 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1353, as engrossed: Judiciary Committee (Sen. Traynor, Chairman)** recommends **DO PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1353 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1369, as engrossed: Finance and Taxation Committee (Sen. Urlacher, Chairman)** recommends **DO NOT PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1369 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1391, as engrossed and amended: Appropriations Committee (Sen. Holmberg, Chairman)** recommends **DO PASS** (10 YEAS, 4 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1391, as amended, was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1425, as engrossed: Human Services Committee (Sen. J. Lee, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). Engrossed HB 1425 was placed on the Sixth order on the calendar.

Page 1, line 1, remove "subsection 3 of"

Page 1, line 5, replace "Subsection 3 of section" with "Section"

Page 1, replace line 7 with:

**"25-16-07. Records of treatment or care center confidential.**

1. No agent of the department of human services or the superintendent of the developmental center at westwood park, Grafton or the licensee or their agents or employees may disclose the contents of the individual records of a treatment or care center for developmentally disabled persons, nor of the reports received therefrom, except:
  - ~~4-~~ a. In a judicial proceeding when ordered by the presiding judge;
  - ~~2-~~ b. To officers of the law or any other legally constituted boards or agencies serving the interests of the residents; or
  - ~~3-~~ c. To the parents, heirs, or legal guardians of the resident.
2. For the purposes of this section, an "heir" must be within four degrees of consanguinity. Under this section, an heir is authorized to act as the personal representative of a deceased resident regarding the deceased resident's health records."

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**HB 1431, as reengrossed: Finance and Taxation Committee (Sen. Urlacher, Chairman)** recommends **DO NOT PASS** (4 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). Reengrossed HB 1431 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1434, as engrossed: Finance and Taxation Committee (Sen. Urlacher, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (5 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). Engrossed HB 1434 was placed on the Sixth order on the calendar.

Page 2, line 7, after "card" insert ", debit card,"

Page 3, line 27, remove the second "or"

Page 3, line 28, remove "another state"

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**HB 1461: Judiciary Committee (Sen. Traynor, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1461 was placed on the Sixth order on the calendar.

Page 1, line 14, replace "proof" with "evidence satisfactory to the court"

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**HB 1471, as engrossed: Finance and Taxation Committee (Sen. Urlacher, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1471 was placed on the Sixth order on the calendar.

Page 1, line 1, after "to" insert "create and enact a new subsection to section 57-38.4-02 of the North Dakota Century Code, relating to the tax on the water's edge filing method; to"

Page 1, line 2, replace "subsection" with "subsections", after "1" insert "and 3", remove "and", and after "57-38-30" insert ", and subsection 3 of section 57-38-40"

Page 1, line 4, after the comma insert "net operating losses," and remove "to repeal chapter 57-38.4 of the North Dakota"

Page 1, line 5, remove "Century Code, relating to the corporate income tax water's edge filing election;"

Page 6, after line 6, insert:

**"SECTION 3. AMENDMENT.** Subsection 3 of section 57-38-01.3 of the North Dakota Century Code is amended and reenacted as follows:

3. The sum calculated pursuant to subsection 1 must be reduced by the amount of any net operating loss that is attributable to North Dakota sources. If the net operating loss that is attributable to North Dakota sources exceeds the sum calculated pursuant to subsection 1, the excess may be ~~carried back or~~ carried forward for the same time period that an identical federal net operating loss may be ~~carried back or~~ carried forward. If a corporation uses an apportionment formula to determine the amount of income that is attributable to North Dakota, the corporation must use the same formula to determine the amount of net operating loss that is attributable to North Dakota. In addition, no deduction may be taken for a ~~carryback or~~ carryforward when determining the amount of net operating loss that is attributable to North Dakota sources."

Page 6, line 14, replace "two-tenths" with "six-tenths"

Page 6, line 16, remove the overstrike over "~~four and~~" and replace "three and two-tenths" with "one-tenth"

Page 6, line 19, replace "four and three-tenths" with "five and six-tenths"

Page 6, line 21, replace "five" with "six"

Page 6, line 23, overstrike "and not in excess of fifty"

Page 6, line 24, overstrike "thousand dollars," and replace "six and five-tenths" with "seven"

Page 6, line 25, overstrike "f. On all taxable income above fifty thousand dollars, at the rate of" and remove "seven"

Page 6, line 26, overstrike "and", remove "five-tenths", and overstrike "percent."

Page 7, replace lines 1 and 2 with:

**"SECTION 5. AMENDMENT.** Subsection 3 of section 57-38-40 of the North Dakota Century Code is amended and reenacted as follows:

3. A corporation may file a claim for credit or refund of an overpayment of tax resulting from the carryback of a net operating loss under subsection 3 of section 57-38-01.3, or resulting from a federal capital loss carryback, within three years after the prescribed due date for filing the return, including extensions, for the tax year in which the loss was incurred. The provisions of this subsection applicable to net operating losses are ~~effective~~ ineffective for loss years beginning after December 31, ~~1986~~ 2002.

**SECTION 6.** A new subsection to section 57-38.4-02 of the North Dakota Century Code is created and enacted as follows:

In addition to the tax imposed under subsection 1 of section 57-38-30, there is imposed an additional tax of three and one-half percent of taxable income which must be levied, collected, and paid annually in the same manner as provided in chapter 57-38."

Page 7, line 3, replace "This Act is" with "Sections 1, 2, 4, and 6 of this Act are"

Page 7, line 4, replace "2002" with "2003. Sections 3 and 5 of this Act are effective for net operating losses incurred in taxable years beginning after December 31, 2002"

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**HB 1492, as engrossed: Political Subdivisions Committee (Sen. Cook, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1492 was placed on the Sixth order on the calendar.

Page 1, line 1, after "to" insert "create and enact a new section to chapter 57-28 of the North Dakota Century Code, relating to filing of tax delinquencies in the central notice system; and to" and after "reenact" insert "subsection 1 of section 54-09-09 and"

Page 1, line 2, after "deeds" insert "and tax delinquency filings in the central notice system"

Page 1, after line 3, insert:

**"SECTION 1. AMENDMENT.** Subsection 1 of section 54-09-09 of the North Dakota Century Code is amended and reenacted as follows:

1. The secretary of state shall maintain a computerized central indexing system that contains the information filed with the office of the secretary of state or with any of the offices of the recorder in this state pursuant to sections 35-13-02, 35-17-04, 35-20-16, 35-30-02, 35-31-02, 35-34-04, 35-34-06, 41-09-72, section 3 of this Act, 57-38-49, 57-39.2-13, 57-40.2-16, 57-40.3-07.1, 57-43.1-17.4, 57-43.2-16.3, and 57-51-11. The system must connect each recorder's office to the secretary of state's office through the information technology department. The system must allow access to financing statement information by equipment that conforms to requirements determined by the information technology department. The system must have safeguards to allow access to information that is in the system relating to security interests or liens and to prevent unauthorized alteration or deletion of that information and to allow access to other information in the system as prescribed by the secretary of state."

Page 2, line 8, remove "classified as"

Page 2, line 9, remove "residential or commercial"

Page 2, after line 9, insert:

**"SECTION 3.** A new section to chapter 57-28 of the North Dakota Century Code is created and enacted as follows:

Notice of tax delinquency - Central indexing system. The secretary of state shall prescribe a form to be used by county officials when notices of delinquent taxes owed to a county are entered in the central indexing system."

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**HCR 3011: Judiciary Committee (Sen. Traynor, Chairman)** recommends **DO PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HCR 3011 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HCR 3037: Human Services Committee (Sen. J. Lee, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HCR 3037 was placed on the Sixth order on the calendar.

Page 1, line 1, after "resolution" replace the remainder of the resolution with "directing the Legislative Council to study the needs of individuals with mental illness, drug and alcohol addictions, and physical or developmental disabilities, including individuals with multiple needs, and how the state responds to those needs; the long-term plans for the State Hospital, the Developmental Center at Westwood Park, Grafton, state and county correctional facilities, and other state facilities and the relationships among those facilities; and the impact and availability of community services.

**WHEREAS**, changes in clinical practices and service delivery systems have created a need for new and different responses in caring for individuals with mental illness and drug and alcohol addictions; and

**WHEREAS**, community-based mental health treatment, service, and support options have been developed to support an individual's recovery in or near the individual's family and community; and

**WHEREAS**, a 2002 study of the operations and facilities of the Department of Corrections and Rehabilitation projected that the number of inmates in the state's prison system will continue to grow by approximately three percent annually; and

**WHEREAS**, the 2002 study indicated that the Department of Corrections and Rehabilitation will need additional bed space to avoid a critical prison capacity shortfall, especially for the female offenders; and

**WHEREAS**, consideration has been given to whether colocation of patients and prisoners is appropriate; and

**WHEREAS**, treatment and other programs that provide alternatives to incarceration may reduce the number of inmates and reduce recidivism;

**NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:**

That the Legislative Council study the needs of individuals with mental illness, drug and alcohol addictions, and physical or developmental disabilities, including individuals with multiple needs, and how the state responds to those needs; the long-term plans for the State Hospital, the Developmental Center at Westwood Park, Grafton, state and county correctional facilities, and other state facilities and the relationships among those facilities; and the impact and availability of community services; and

**BE IT FURTHER RESOLVED**, that in conducting the study, the Legislative Council solicit testimony from interested parties, including individuals receiving services, the individuals' families, administrators and staff at state and community facilities, the Department of Human Services, the Department of Corrections and Rehabilitation, advocacy groups, and the governing boards of state facilities providing services to those individuals; and

**BE IT FURTHER RESOLVED**, that in conducting the study, the Legislative Council study the cost-effectiveness and efficiency of incarcerating large numbers of inmates in a large facility; and

**BE IT FURTHER RESOLVED**, that the Legislative Council may contract with an independent party to conduct the study; and

**BE IT FURTHER RESOLVED**, that the Legislative Council report its findings and recommendations, together with any legislation required to implement the recommendations, to the Fifty-ninth Legislative Assembly."

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**HCR 3059, as engrossed: Judiciary Committee (Sen. Traynor, Chairman)** recommends **DO PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HCR 3059 was placed on the Fourteenth order on the calendar.

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

**WILLIAM R. HORTON, Secretary**