

JOURNAL OF THE SENATE

Fifty-eighth Legislative Assembly

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Bismarck, April 17, 2003

The Senate convened at 8:30 a.m., with President Dalrymple presiding.

The prayer was offered by Senator Nelson.

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

A quorum was declared by the President.

CONSIDERATION OF CONFERENCE COMMITTEE REPORT

SEN. TRENBEATH MOVED that the conference committee report on Engrossed HB 1439 as printed on SJ pages 1433-1436 be adopted, which motion prevailed on a voice vote.

Engrossed HB 1439, as amended, was placed on the Fourteenth order.

SECOND READING OF HOUSE BILL

HB 1439: A BILL for an Act to amend and reenact subsection 7 of section 39-06.1-10, section 39-20-04, and subsection 1 of section 39-20-04.1 of the North Dakota Century Code, relating to consequences for driving while under the influence; and to provide for a legislative council study.

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

YEAS: Andrist; Bercier; Brown; Christenson; Cook; Erbele; Espegard; Every; Fischer; Flakoll; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Mathern; Nelson; Nething; Polovitz; Robinson; Seymour; Tallackson; Taylor; Tollefson; Traynor; Trenbeath; Wardner

NAYS: Bowman; Christmann; Dever; Fairfield; Freborg; Kringstad; Lyson; Mutch; Nichols; O'Connell; Schobinger; Stenehjerm; Syverson; Thane; Urlacher

ABSENT AND NOT VOTING: Grindberg

Engrossed HB 1439, as amended, passed and the title was agreed to.

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 1439.

COMMUNICATION FROM GOVERNOR JOHN HOEVEN

This is to inform you that on April 16, 2003, I have signed the following: SB 2018, SB 2024, and SB 2255.

MESSAGE TO THE SENATE FROM THE HOUSE (BRADLEY C. FAY, CHIEF CLERK)

MR. PRESIDENT: The Speaker has appointed Rep. Glassheim to replace Rep. Warner on the Conference Committee on HB 1002.

MESSAGE TO THE SENATE FROM THE HOUSE (BRADLEY C. FAY, CHIEF CLERK)

MR. PRESIDENT: The Speaker has appointed Rep. Kroeber to replace Rep. Warner on the Conference Committee on HB 1015.

MESSAGE TO THE SENATE FROM THE HOUSE (BRADLEY C. FAY, CHIEF CLERK)

MR. PRESIDENT: The Speaker has appointed Rep. Glassheim to replace Rep. Warner on the Conference Committee on SB 2001.

MESSAGE TO THE SENATE FROM THE HOUSE (BRADLEY C. FAY, CHIEF CLERK)

MR. PRESIDENT: The Speaker has appointed Rep. Kroeber to replace Rep. Warner on the Conference Committee on SB 2002.

MESSAGE TO THE SENATE FROM THE HOUSE (BRADLEY C. FAY, CHIEF CLERK)

MR. PRESIDENT: The Speaker has appointed Rep. Glassheim to replace Rep. Warner on the Conference Committee on SB 2003.

MESSAGE TO THE SENATE FROM THE HOUSE (BRADLEY C. FAY, CHIEF CLERK)

MR. PRESIDENT: The Speaker has appointed Rep. Kroeber to replace Rep. Warner on the Conference Committee on SB 2009.

MESSAGE TO THE SENATE FROM THE HOUSE (BRADLEY C. FAY, CHIEF CLERK)

MR. PRESIDENT: The Speaker has appointed Rep. Glassheim to replace Rep. Warner on the Conference Committee on SB 2311.

MESSAGE TO THE SENATE FROM THE HOUSE (BRADLEY C. FAY, CHIEF CLERK)

MR. PRESIDENT: The Speaker has appointed Rep. Kroeber to replace Rep. Warner on the Conference Committee on SB 2416.

MOTION

SEN. CHRISTMANN MOVED that the Senate stand in recess until 1:00 p.m., which motion prevailed.

THE SENATE RECONVENED pursuant to recess taken, with President Dalrymple presiding.

REPORT OF CONFERENCE COMMITTEE

SB 2190: Your conference committee (Sens. J. Lee, Syverson, Christenson and Reps. Grande, Boehning, Eckre) recommends that the **HOUSE RECEDE** from the House amendments on SJ pages 770-771, adopt amendments as follows, and place SB 2190 on the Seventh order:

That the House recede from its amendments as printed on pages 770 and 771 of the Senate Journal and on pages 859 and 860 of the House Journal and that Senate Bill No. 2190 be amended as follows:

Page 1, line 10, remove "1."

Page 1, line 15, overstrike "or"

Page 1, line 17, replace the underscored period with ", or"

Page 1, line 18, remove "2. A person under twenty-one years of age may not"

Page 1, line 19, remove the overstrike over the overstruck comma

Page 1, line 21, after "~~entering~~" insert "who"

Page 2, line 3, remove "3."

Page 2, line 4, remove "4."

Page 2, line 12, remove "1."

Page 2, line 17, remove "2."

Page 2, line 18, remove the overstrike over "~~if~~" and remove the underscored colon

Page 2, line 19, remove "a. If"

Page 2, line 21, remove the overstrike over the overstruck comma and insert immediately thereafter "or", remove the overstrike over "~~if~~", and remove the underscored semicolon

Page 2, line 22, remove "b. If"

Page 2, line 25, replace the underscored semicolon with ". A person may enter and remain on the licensed premises if"

Page 2, line 26, remove "c. If"

Page 2, line 27, remove the underscored semicolon and after "or" insert "if"

Page 2, line 28, remove "d. If" and replace "restaurant" with "licensed premises"

Page 3, line 1, remove "3."

Page 3, line 4, remove "4."

Renumber accordingly

SB 2190 was placed on the Seventh order of business on the calendar.

CONSIDERATION OF CONFERENCE COMMITTEE REPORT

SEN. J. LEE MOVED that the conference committee report on SB 2190 be adopted, which motion prevailed on a voice vote.

SB 2190, as amended, was placed on the Eleventh order.

SECOND READING OF SENATE BILL

SB 2190: A BILL for an Act to amend and reenact sections 5-01-08 and 5-02-06 of the North Dakota Century Code, relating to persons under twenty-one years of age and licensed premises where alcohol beverages are sold.

ROLL CALL

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

YEAS: Andrist; Bercier; Bowman; Brown; Christenson; Christmann; Cook; Dever; Erbele; Espegard; Every; Fairfield; Fischer; Flakoll; Freborg; 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: Grindberg

Engrossed SB 2190 passed and the title was agreed to.

REPORT OF CONFERENCE COMMITTEE

SB 2418, as engrossed: Your conference committee (Sens. Cook, G. Lee, Christenson and Reps. Nelson, Herbel, Williams) recommends that the **HOUSE RECEDE** from the House amendments on SJ pages 1011-1012, adopt amendments as follows, and place SB 2418 on the Seventh order:

That the House recede from its amendments as printed on pages 1011 and 1012 of the Senate Journal and pages 1084 and 1085 of the House Journal and that Engrossed Senate Bill No. 2418 be amended as follows:

Page 1, line 1, replace "an investigating" with "a select"

Page 1, line 4, replace "**INVESTIGATING**" with "**ACT OF 2001 - SELECT**"

Page 1, line 5, replace "**POWERS**" with "**DUTIES**"

Page 1, line 6, replace "an investigating" with "a select" and replace "six" with "five"

Page 1, line 7, replace "seven" with "six"

Page 1, remove lines 16 through 19

Page 1, line 20, replace "4." with "3."

Page 2, replace lines 1 through 3 with:

- "4. When an agency files a notice of proposed rulemaking with the office of the legislative council under subsection 1 of section 28-32-10 on any matter governed by the No Child Left Behind Act of 2001, the agency shall provide a copy of the notice to the chairman of the committee. The chairman shall convene the committee within sixty days of receiving the notice, or as soon thereafter as practicable, for the purpose of receiving a presentation by the agency regarding the nature and scope of the proposed rules and for the

purpose of receiving presentations by members of the public regarding the nature and scope of the proposed rules."

Page 2, line 4, replace "6." with "5."

Renumber accordingly

Engrossed SB 2418 was placed on the Seventh order of business on the calendar.

CONSIDERATION OF CONFERENCE COMMITTEE REPORT

SEN. COOK MOVED that the conference committee report on Engrossed SB 2418 be adopted, which motion prevailed on a voice vote.

Engrossed SB 2418, as amended, was placed on the Eleventh order.

SECOND READING OF SENATE BILL

SB 2418: A BILL for an Act to create a select committee regarding implementation of the No Child Left Behind Act of 2001; and to declare an emergency.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 45 YEAS, 1 NAY, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

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

NAYS: O'Connell

ABSENT AND NOT VOTING: Grindberg

Reengrossed SB 2418 passed, the title was agreed to, and the emergency clause was declared carried.

REPORT OF CONFERENCE COMMITTEE

SB 2345, as engrossed: Your conference committee (Sens. Brown, Erbele, Polovitz and Reps. Porter, Wieland, Potter) recommends that the **HOUSE RECEDE** from the House amendments on SJ page 1011 and place SB 2345 on the Seventh order.

Engrossed SB 2345 was placed on the Seventh order of business on the calendar.

CONSIDERATION OF CONFERENCE COMMITTEE REPORT

SEN. BROWN MOVED that the conference committee report on Engrossed SB 2345 be adopted, which motion prevailed on a voice vote.

MOTION

SEN. CHRISTMANN MOVED that Sen. Andrist replace Sen. Thane as Chairman and that Sen. Kringstad replace Sen. Andrist on the Senate Conference Committee on SB 2416, which motion prevailed.

REQUEST

SEN. STENEHJEM REQUESTED that his remarks be printed in the Journal, which request was granted.

REMARKS OF SENATOR STENEHJEM REGARDING DOCTOR OF THE DAY PROGRAM

Mr. President: For many legislative sessions now we have enjoyed the services of physicians who have volunteered to come to the capitol and participate in the Doctor of the Day program. On behalf of this body, I wish to acknowledge the value of this program, and express our appreciation to those doctors who have been here during the Fifty-eighth Legislative Assembly to provide their medical skills and timely interventions to those of us who may have been in need.

We are especially grateful to the PrimeCare Health System and the MedCenter One Health Systems of Bismarck for offering us the two blood pressure and cholesterol screenings, to the UND School of Medicine Bismarck Family Medicine training program for the medical equipment and supplies used in the exam room, and to the pharmaceutical companies that supplied the

non-prescription medications given to us at no cost. I would also like to submit for inclusion in the Journal a listing of the forty-nine physicians from around the state who have participated in this year's Doctor of the Day program, coordinated by the North Dakota Medical Association. Thank you, Mr. President.

**2003 Legislative Assembly
Doctor of the Day Program Physician Participants**

Mario Albertucci, MD, Bismarck
William E. Altringer, MD, Bismarck
Wayne L. Anderson, MD, Williston
Gretchen Belzer Curl, MD, Bismarck
Gary R. Betting, MD, Mandan
Joan M. Connell, MD, Bismarck
Russel J. Emery, MD, Bismarck
Patrick J. Fitzpatrick, MD, Bismarck
Kevin F. Folkers, MD, Mandan
Linda L. Getz Kleiman, MD, Fargo
Scott A. Goecke, MD, Beulah
Walter A. Gokavi, MD, Mohall
Keith R. Happel, MD, Bismarck
Gary D. Haynie, MD, Fargo
Brian J. Hebert, MD, Bismarck
Jeffrey E. Hostetter, MD, Bismarck
Paul E. Jondahl, MD, Bismarck
Gaylord J. Kavlie, MD, Bismarck
Theodore W. Kleiman, MD, Fargo
Dale A. Klein, MD, Mandan
Jacinta Klindworth, MD, Bismarck
Paul B. Knudson, MD, Bismarck
Russel J. Kuzel, MD, Fargo
Darwin K. Lange, MD, Mandan
Richard R. Laraway, MD, Jamestown
Tom R. Magill, MD, Bismarck
Tracie M. Mallberg Shaffer, MD, Bismarck
Corey L. Martin, MD, Bismarck
Erling D. Martinson, MD, Grand Forks
Sarah McCullough, MD, Bismarck
R. J. Moen, MD, Bismarck
Ben W. Muscha, MD, Bismarck
Margaret C. Nordell, MD, Minot
Jerry M. Obritsch, MD, Bismarck
Jeffrey L. Orchard, MD, Bismarck
Edwin J. Rodriguez, MD, Bismarck
Robert J. Roswick, MD, Bismarck
Sean S. Russel, MD, Bismarck
Mark L. Szczepanski, MD, Fargo
Aliya A. Shamsi, MD, Bismarck
Hayley J. Svedjan Walz, MD, Grand Forks
Guy P. Tangedahl, MD, Bismarck
Robert Tanous, DO, Bismarck
Steven B. Thom, MD, Fargo
Michelle R. Tincher, MD, Bismarck
Joel D. Walz, MD, Grand Forks
Herbert J. Wilson, MD, Bismarck
Sue K. Wink, MD, Bismarck
Dennis E. Wolf, MD, Dickinson

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

MR. SPEAKER: The President has signed: HB 1009, HB 1264, HB 1372, HB 1397, HB 1469, HCR 3037.

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 2029, SB 2083, SB 2135, SB 2248, SB 2249.

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

MR. SPEAKER: The President has appointed Sen. Andrist to replace Sen. Thane on the Conference Committee on SB 2416.

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

MR. SPEAKER: The President has appointed Sen. Kringstad to replace Sen. Andrist on the Conference Committee on SB 2416.

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

MR. SPEAKER: The Senate has adopted the conference committee report and subsequently passed: SB 2190.

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

MR. SPEAKER: The Senate has adopted the conference committee report: SB 2345.

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

MR. SPEAKER: The Senate has adopted the conference committee report, subsequently passed, and the emergency clause carried: SB 2418.

MESSAGE TO THE SENATE FROM THE HOUSE (BRADLEY C. FAY, CHIEF CLERK)

MR. PRESIDENT: The Speaker has signed: SB 2148, SB 2149, SB 2150, SB 2188, SB 2235, SB 2363, SB 2384.

MESSAGE TO THE SENATE FROM THE HOUSE (BRADLEY C. FAY, CHIEF CLERK)

MR. PRESIDENT: The Speaker has signed and your signature is respectfully requested on: HB 1050, HB 1179, HB 1218, HB 1439.

MESSAGE TO THE SENATE FROM THE HOUSE (BRADLEY C. FAY, CHIEF CLERK)

MR. PRESIDENT: The Speaker has appointed Rep. Weisz to replace Rep. Headland on the Conference Committee on HB 1047.

MESSAGE TO THE SENATE FROM THE HOUSE (BRADLEY C. FAY, CHIEF CLERK)

MR. PRESIDENT: The Speaker has appointed Rep. Hawken to replace Rep. Kretschmar on the Conference Committee on HCR3005.

MESSAGE TO THE SENATE FROM THE HOUSE (BRADLEY C. FAY, CHIEF CLERK)

MR. PRESIDENT: The House has adopted the conference committee report and subsequently passed: SB 2030, SB 2033, SB 2065, SB 2311, SB 2403.

MESSAGE TO THE SENATE FROM THE HOUSE (BRADLEY C. FAY, CHIEF CLERK)

MR. PRESIDENT: The House has adopted the conference committee report and subsequently passed: HB 1295.

MESSAGE TO THE SENATE FROM THE HOUSE (BRADLEY C. FAY, CHIEF CLERK)

MR. PRESIDENT: The House has adopted the conference committee report: SB 2010.

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, and Seventh orders of business and at the conclusion of those orders, the Senate stand adjourned until 8:30 a.m., Friday, April 18, 2003, which motion prevailed.

REPORT OF CONFERENCE COMMITTEE

HB 1295, as engrossed: Your conference committee (Sens. Flakoll, G. Lee, Christenson and Reps. Hawken, Nelson, Mueller) recommends that the **SENATE RECEDE** from the Senate amendments on HJ pages 1224-1226, adopt amendments as follows, and place HB 1295 on the Seventh order:

That the Senate recede from its amendments as printed on pages 1224-1226 of the House Journal and pages 1068-1070 of the Senate Journal and that Engrossed House Bill No. 1295 be amended as follows:

Page 1, line 8, overstrike "provide" and insert immediately thereafter "report" and remove the overstrike over "~~the following information~~"

Page 1, line 10, remove ", the total amount paid or provided as"

Page 1, replace line 23 and 24 with:

"a. The number of days each was employed during the preceding school year.

- b. The base salaries.
- c. The amount of compensation provided for extended contracts.
- d. The amount of compensation provided for cocurricular activities.
- e. The amount expended for contract buyouts.
- f. The amount of compensation provided in lieu of salaries.
- g. The amount paid for signing bonuses.
- h. The amount of compensation provided for substitute teaching and workload adjustment.
- i. The amount of compensation provided for any other purposes.
- j. The amount expended for health insurance benefits.
- k. The amount expended for dental, vision, and cancer insurance benefits.
- l. The amount expended for life and long-term disability insurance benefits.
- m. The amount of retirement contributions and assessments, including individual shares if paid by the district.
- n. The district's share of Federal Insurance Contributions Act taxes.
- o. The amount of dues or membership fees paid by the district.
- p. Any other benefits provided by the district."

Page 2, remove lines 1 through 12

Page 2, line 15, remove "individual"

Page 2, line 17, remove "individual"

Page 2, line 18, remove "employed as a" and replace "or as an" with "and"

Page 2, line 29, replace "provided in" with "of"

Renumber accordingly

Engrossed HB 1295 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

