

JOURNAL OF THE SENATE

Fifty-eighth Legislative Assembly

* * * * *

Bismarck, April 14, 2003

The Senate convened at 9:00 a.m., with President Dalrymple presiding.

The prayer was offered by Pastor Wilfred Roset, Assembly of God, Powers Lake.

The roll was called and all members were present.

A quorum was declared by the President.

COMMUNICATION FROM GOVERNOR JOHN HOEVEN

This is to inform you that on April 11, 2003, I have signed the following: SB 2099, SB 2253, SB 2259, SB 2319, SB 2320, SB 2323, SB 2330, SB 2346, SB 2348, SB 2350, SB 2360, SB 2385, SB 2405, and SB 2420.

APPOINTMENT OF CONFERENCE COMMITTEE

SEN. HOLMBERG MOVED that the President appoint a committee of three to act with a like committee from the House as a Conference Committee on Engrossed HB 1003, which motion prevailed.

THE PRESIDENT APPOINTED as a Conference Committee on Engrossed HB 1003: Sens. Holmberg, Kringstad, Robinson.

APPOINTMENT OF CONFERENCE COMMITTEE

SEN. HOLMBERG MOVED that the President appoint a committee of three to act with a like committee from the House as a Conference Committee on Engrossed HB 1015, which motion prevailed.

THE PRESIDENT APPOINTED as a Conference Committee on Engrossed HB 1015: Sens. Schobinger, Kringstad, Lindaas.

APPOINTMENT OF CONFERENCE COMMITTEE

SEN. HOLMBERG MOVED that the President appoint a committee of three to act with a like committee from the House as a Conference Committee on Engrossed HB 1016, which motion prevailed.

THE PRESIDENT APPOINTED as a Conference Committee on Engrossed HB 1016: Sens. Kringstad, Christmann, Krauter.

APPOINTMENT OF CONFERENCE COMMITTEE

SEN. HOLMBERG MOVED that the President appoint a committee of three to act with a like committee from the House as a Conference Committee on Engrossed HB 1022, which motion prevailed.

THE PRESIDENT APPOINTED as a Conference Committee on Engrossed HB 1022: Sens. Schobinger, Christmann, Robinson.

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

MR. SPEAKER: The President has appointed as a conference committee to act with a like committee from the House on:

HB 1003: Sens. Holmberg; Kringstad; Robinson

HB 1015: Sens. Schobinger; Kringstad; Lindaas

HB 1016: Sens. Kringstad; Christmann; Krauter

HB 1022: Sens. Schobinger; Christmann; Robinson

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

MR. SPEAKER: The President has signed: HCR 3040.

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 1051, HB 1088, HB 1112, HB 1123.

MOTION

SEN. CHRISTMANN MOVED that the Senate stand in recess until 12:30 a.m., which motion prevailed.

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

REQUEST

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

REMARKS OF SENATOR TALLACKSON

Mr. President: Today I am a proud grandparent. Saturday night the University of Minnesota Golden Gopher Hockey Team won the National Collegiate Hockey Championship in Buffalo, New York. They defeated New Hampshire 5 to 1 in the championship game. Mine and Glenna's grandson, Barry Tallackson, scored two goals and one assist in the championship game.

Although I know most of you have your favorite as the University of North Dakota Fighting Sioux, I hope you will join me in congratulating the University of Minnesota Golden Gophers who won back to back championships in 2002 and 2003, the first time any team has done this in thirty years.

Hockey is a great game in North Dakota and Minnesota. It's a real tribute to this area that the Minnesota Gophers bring the championship to our region of the United States.

Our grandson and Grant Putolmy of Grand Forks are two North Dakota born players on the Gopher Championship Team. Thank you.

MOTION

SEN. CHRISTMANN MOVED that the Senate message the House to request the return of SB 2190, which motion prevailed.

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)
MR. SPEAKER: The Senate respectfully requests the return of: SB 2190.

CONSIDERATION OF CONFERENCE COMMITTEE REPORT

SEN. J. LEE MOVED that the conference committee report on Engrossed HB 1037 as printed on SJ pages 1335-1336 be adopted, which motion prevailed on a voice vote.

CONSIDERATION OF CONFERENCE COMMITTEE REPORT

SEN. KLEIN MOVED that the conference committee report on Engrossed HB 1092 as printed on SJ page 1340 be adopted, which motion prevailed on a voice vote.

CONSIDERATION OF CONFERENCE COMMITTEE REPORT

SEN. NETHING MOVED that the conference committee report on Engrossed HB 1116 as printed on SJ page 1340 be adopted, which motion prevailed on a voice vote.

CONSIDERATION OF CONFERENCE COMMITTEE REPORT

SEN. KLEIN MOVED that the conference committee report on Engrossed HB 1190 as printed on SJ page 1342 be adopted, which motion prevailed on a voice vote.

CONSIDERATION OF CONFERENCE COMMITTEE REPORT

SEN. TRENBEATH MOVED that the conference committee report on HB 1461 as printed on SJ page 1346 be adopted, which motion prevailed on a voice vote.

CONSIDERATION OF CONFERENCE COMMITTEE REPORT

SEN. KLEIN MOVED that the conference committee report on Engrossed HB 1486 as printed on SJ page 1346 be adopted, which motion prevailed on a voice vote.

CONSIDERATION OF CONFERENCE COMMITTEE REPORT

SEN. COOK MOVED that the conference committee report on Reengrossed HB 1086 as printed on SJ page 1369 be adopted, which motion prevailed on a voice vote.

CONSIDERATION OF CONFERENCE COMMITTEE REPORT

SEN. ERBELE MOVED that the conference committee report on Engrossed HB 1197 as printed on SJ pages 1342-1344 be adopted, which motion prevailed on a voice vote.

Engrossed HB 1197, as amended, was placed on the Fourteenth order.

SECOND READING OF HOUSE BILL

HB 1197: A BILL for an Act to create and enact a new chapter to title 60 of the North Dakota Century Code, relating to the creation of a credit-sale contract indemnity fund; to amend and reenact sections 60-02.1-28, 60-02.1-29, 60-02.1-30, 60-02.1-31, 60-02.1-32, 60-02.1-33, and 60-02.1-34, subsection 3 of section 60-02.1-35, and sections 60-02.1-37, 60-04-02, and 60-04-03.1 of the North Dakota Century Code, relating to insolvencies of grain buyers and warehousemen; and to provide a penalty.

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, 0 ABSENT AND NOT VOTING.

YEAS: Andrist; Bercier; Bowman; Brown; Christenson; Christmann; Cook; Dever; Erbele; Espesgaard; 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

Engrossed HB 1197, as amended, passed and the title was agreed to.

CONSIDERATION OF CONFERENCE COMMITTEE REPORT

SEN. LYSON MOVED that the conference committee report on Engrossed HB 1218 as printed on SJ pages 1344-1346 be adopted, which motion prevailed on a voice vote.

Engrossed HB 1218, as amended, was placed on the Fourteenth order.

SECOND READING OF HOUSE BILL

HB 1218: A BILL for an Act to amend and reenact subsection 3 of section 38-08-08 and subsection 3 of section 38-08-09.4 of the North Dakota Century Code, relating to carrying or otherwise financing nonparticipating owners in the development of oil and gas interests in spacing units and plans of unitization.

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, 1 NAY, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

YEAS: Andrist; Bercier; Bowman; Brown; Christenson; Christmann; Cook; Dever; Erbele; Espesgaard; Every; 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

NAYS: Fairfield

Engrossed HB 1218, as amended, passed and the title was agreed to.

CONSIDERATION OF CONFERENCE COMMITTEE REPORT

SEN. TOLLEFSON MOVED that the conference committee report on Engrossed HB 1391 as printed on SJ page 1346 be adopted, which motion prevailed on a voice vote.

Engrossed HB 1391, as amended, was placed on the Fourteenth order.

SECOND READING OF HOUSE BILL

HB 1391: A BILL for an Act to amend and reenact section 20.1-03-12 of the North Dakota Century Code, relating to big game hunting license fees; 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 44 YEAS, 3 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

YEAS: Andrist; Bercier; Brown; Christenson; Cook; Dever; Erbele; Espesgaard; 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; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

NAYS: Bowman; Christmann; Schobinger

Engrossed HB 1391, as amended, passed, the title was agreed to, and the emergency clause was declared carried.

CONSIDERATION OF CONFERENCE COMMITTEE REPORT

SEN. COOK MOVED that the conference committee report on HB 1079 as printed on SJ pages 1368-1369 be adopted, which motion prevailed on a voice vote.

HB 1079, as amended, was placed on the Fourteenth order.

SECOND READING OF HOUSE BILL

HB 1079: A BILL for an Act to create and enact a new section to chapter 15.1-02 of the North Dakota Century Code, relating to teacher and administrator credentials.

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, 0 ABSENT AND NOT VOTING.

YEAS: Andrist; Bercier; Bowman; Brown; Christenson; Christmann; Cook; Dever; Erbele; Espgaard; 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

HB 1079, as amended, passed and the title was agreed to.

CONSIDERATION OF CONFERENCE COMMITTEE REPORT

SEN. FISCHER MOVED that the conference committee report on Engrossed HB 1223 as printed on SJ pages 1369-1370 be adopted, which motion prevailed on a voice vote.

Engrossed HB 1223, as amended, was placed on the Fourteenth order.

SECOND READING OF HOUSE BILL

HB 1223: A BILL for an Act to create and enact a new section to chapter 20.1-04 and a new section to chapter 20.1-08 of the North Dakota Century Code, relating to the opening date of pheasant season and the hunting of pheasants on certain lands in the state.

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, 0 ABSENT AND NOT VOTING.

YEAS: Andrist; Bercier; Bowman; Brown; Christenson; Christmann; Cook; Dever; Erbele; Espgaard; 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

Engrossed HB 1223, as amended, passed and the title was agreed to.

CONSIDERATION OF CONFERENCE COMMITTEE REPORT

SEN. MUTCH MOVED that the conference committee report on HB 1236 as printed on SJ page 1370 be adopted, which motion prevailed on a voice vote.

HB 1236, as amended, was placed on the Fourteenth order.

SECOND READING OF HOUSE BILL

HB 1236: A BILL for an Act to amend and reenact sections 43-19.1-18 and 43-19.1-25 of the North Dakota Century Code, relating to professional engineer and land surveyor registration fees and recovery of legal costs in disciplinary matters.

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, 1 NAY, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

YEAS: Andrist; Bercier; Bowman; Brown; Christenson; Christmann; Cook; Dever; Erbele; Espesgaard; Every; Fairfield; 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: O'Connell

HB 1236, as amended, passed and the title was agreed to.

CONSIDERATION OF CONFERENCE COMMITTEE REPORT

SEN. ESPEGARD MOVED that the conference committee report on Engrossed HB 1255 as printed on SJ page 1370 be adopted, which motion prevailed on a voice vote.

Engrossed HB 1255, as amended, was placed on the Eleventh order.

SECOND READING OF HOUSE BILL

HB 1255: A BILL for an Act to amend and reenact section 39-21-39 of the North Dakota Century Code, relating to windshield tinting.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 40 YEAS, 7 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

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

NAYS: Fairfield; Kilzer; Lyson; Nelson; O'Connell; Seymour; Syverson

Engrossed HB 1255, as amended, passed and the title was agreed to.

CONSIDERATION OF CONFERENCE COMMITTEE REPORT

SEN. ERBELE MOVED that the conference committee report on Engrossed HB 1269 as printed on SJ page 1371 be adopted, which motion prevailed on a voice vote.

Engrossed HB 1269, as amended, was placed on the Fourteenth order.

SECOND READING OF HOUSE BILL

HB 1269: A BILL for an Act to create and enact a new section to chapter 57-36 of the North Dakota Century Code, relating to the sale and distribution of tobacco products manufactured by tobacco product manufacturers not in compliance with state or federal law; 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 47 YEAS, 0 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

YEAS: Andrist; Bercier; Bowman; Brown; Christenson; Christmann; Cook; Dever; Erbele; Espesgaard; 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

Engrossed HB 1269, as amended, passed, the title was agreed to, and the emergency clause was declared carried.

CONSIDERATION OF CONFERENCE COMMITTEE REPORT

SEN. ESPEGARD MOVED that the conference committee report on Engrossed HB 1291 as printed on SJ pages 1371-1372 be adopted, which motion prevailed on a voice vote.

Engrossed HB 1291, as amended, was placed on the Fourteenth order.

SECOND READING OF HOUSE BILL

HB 1291: A BILL for an Act to amend and reenact sections 49-09-04.2 and 49-09-04.3 of the North Dakota Century Code, relating to the abandonment and the sale of abandoned railroad right of way.

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, 0 ABSENT AND NOT VOTING.

YEAS: Andrist; Bercier; Bowman; Brown; Christenson; Christmann; Cook; Dever; Erbele; Espgaard; 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

Engrossed HB 1291, as amended, passed and the title was agreed to.

CONSIDERATION OF CONFERENCE COMMITTEE REPORT

SEN. TRENBEATH MOVED that the conference committee report on HB 1292 as printed on SJ pages 1372-1373 be adopted, which motion prevailed on a voice vote.

HB 1292, as amended, was placed on the Fourteenth order.

SECOND READING OF HOUSE BILL

HB 1292: A BILL for an Act to amend and reenact sections 39-24-04 and 39-24-11 of the North Dakota Century Code, relating to a snowmobile access fee; to provide a penalty; to provide an appropriation; and to provide an effective date.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 30 YEAS, 17 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

YEAS: Brown; Christenson; Dever; Erbele; Espgaard; Every; Fairfield; Fischer; Freborg; Grindberg; Heitkamp; Holmberg; Kilzer; Klein; Krebsbach; Kringstad; Lee, J.; Lindaas; Mathern; Mutch; Nelson; Nething; Polovitz; Seymour; Tallackson; Taylor; Thane; Traynor; Trenbeath; Urlacher

NAYS: Andrist; Bercier; Bowman; Christmann; Cook; Flakoll; Krauter; Lee, G.; Lyson; Nichols; O'Connell; Robinson; Schobinger; Stenehjem; Syverson; Tollefson; Wardner

HB 1292, as amended, passed and the title was agreed to.

CONSIDERATION OF CONFERENCE COMMITTEE REPORT

SEN. MUTCH MOVED that the conference committee report on Engrossed HB 1309 as printed on SJ pages 1373-1382 be adopted, which motion prevailed on a voice vote.

Engrossed HB 1309, as amended, was placed on the Fourteenth order.

SECOND READING OF HOUSE BILL

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 an existing facility or adapting a new facility for producing or blending diesel fuel containing biodiesel fuel; to amend and reenact sections 24-02-01.5, 57-43.2-01, 57-43.2-02, and 57-43.2-03 of the North Dakota Century Code, relating to a

special fuels tax reduction for fuel containing biodiesel; to provide an effective date; and to provide an expiration date.

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, 1 NAY, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

YEAS: Andrist; Bercier; Bowman; Brown; Christenson; Cook; Dever; Erbele; Espgaard; 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

NAYS: Christmann

Engrossed HB 1309, as amended, passed and the title was agreed to.

CONSIDERATION OF CONFERENCE COMMITTEE REPORT

SEN. FISCHER MOVED that the conference committee report on Engrossed HB 1414 as printed on SJ page 1382 be adopted, which motion prevailed on a voice vote.

Engrossed HB 1414, as amended, was placed on the Fourteenth order.

SECOND READING OF HOUSE BILL

HB 1414: A BILL for an Act to create and enact a new section to chapter 23-07 of the North Dakota Century Code, relating to reporting disease outbreaks to the state department of health in an emergency; to amend and reenact sections 23-07-02, 23-07.6-01, 23-07.6-02, 23-07.6-03, 23-07.6-04, 23-07.6-05, 23-07.6-06, 23-07.6-07, 23-07.6-08, 23-07.6-09, 23-07.6-10, 23-07.6-11, 23-07.6-12, subsection 8 of section 23-35-08, subdivision h of subsection 2 of section 23-35-12, and subsection 2 of section 40-06-01, relating to disease reporting and quarantine or isolation of persons infected or potentially infected with contagious diseases; and to provide a penalty.

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, 0 ABSENT AND NOT VOTING.

YEAS: Andrist; Bercier; Bowman; Brown; Christenson; Christmann; Cook; Dever; Erbele; Espgaard; 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

Engrossed HB 1414, as amended, passed and the title was agreed to.

CONSIDERATION OF CONFERENCE COMMITTEE REPORT

SEN. BROWN MOVED that the conference committee report on Engrossed HB 1425 as printed on SJ pages 1382-1383 be adopted, which motion prevailed on a voice vote.

Engrossed HB 1425, as amended, was placed on the Fourteenth order.

SECOND READING OF HOUSE BILL

HB 1425: A BILL for an Act to amend and reenact section 25-16-07 of the North Dakota Century Code, relating to the disclosure of individual records of a treatment or care center for developmentally disabled individuals.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 40 YEAS, 7 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

YEAS: Andrist; Bercier; Bowman; Brown; Christmann; Cook; Dever; Erbele; Espgaard; Every; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lyson; Mutch; Nelson; Nething; Polovitz;

Schobinger; Seymour; Stenehjerm; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

NAYS: Christenson; Fairfield; Lindaas; Mathern; Nichols; O'Connell; Robinson

Engrossed HB 1425, 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: HB 1037, HB 1086, HB 1092, HB 1116, HB 1190, HB 1461, HB 1486.

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 1079, HB 1197, HB 1218, HB 1223, HB 1236, HB 1255, HB 1291, HB 1292, HB 1309, HB 1414, HB 1425.

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: HB 1269, HB 1391.

MOTION

SEN. CHRISTMANN MOVED that the Senate stand in recess until 4:30 p.m., which motion prevailed.

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

COMMUNICATION FROM GOVERNOR JOHN HOEVEN

This is to inform you that on April 14, 2003, I have signed the following: SB 2041, SB 2194, SB 2222, SB 2261, SB 2302, SB 2337, SB 2339, SB 2340, and SB 2410.

MOTION

SEN. KLEIN MOVED that the Senate reconsider its action whereby HB 1158, as amended, passed but the emergency clause failed, which motion prevailed on a verification vote.

HB 1158, as amended, was placed on the Fourteenth order.

MOTION

SEN. CHRISTMANN MOVED that HB 1158, which is on the Fourteenth order, be laid over one legislative day, which motion prevailed.

CONSIDERATION OF CONFERENCE COMMITTEE REPORT

SEN. FISCHER MOVED that the conference committee report on Engrossed HB 1469 as printed on SJ page 1383 be adopted, which motion prevailed on a voice vote.

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

SECOND READING OF HOUSE BILL

HB 1469: A BILL for an Act to create and enact a new section to chapter 50-24.1 of the North Dakota Century Code, relating to eligibility for medical assistance; and to amend and reenact section 50-24.1-02.5 of the North Dakota Century Code, relating to eligibility for medical assistance.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 41 YEAS, 6 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

YEAS: Andrist; Bercier; Bowman; Brown; Christenson; Christmann; Cook; Dever; Erbele; Espgaard; Every; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kilzer; Klein; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Mutch; Nothing; Nichols; Polovitz; Robinson; Schobinger; Stenehjerm; Syverson; Tallackson; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

NAYS: Fairfield; Krauter; Nelson; O'Connell; Seymour; Taylor

Engrossed HB 1469, as amended, passed and the title was agreed to.

CONSIDERATION OF CONFERENCE COMMITTEE REPORT

SEN. KILZER MOVED that the conference committee report on Engrossed SB 2010 as printed on SJ page 1364 be adopted, which motion prevailed on a voice vote.

Engrossed SB 2010, as amended, was placed on the Eleventh order.

SECOND READING OF SENATE BILL

SB 2010: A BILL for an Act to provide an appropriation for defraying the expenses of the insurance commissioner.

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; 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: Fischer

Reengrossed SB 2010 passed and the title was agreed to.

CONSIDERATION OF CONFERENCE COMMITTEE REPORT

SEN. ERBELE MOVED that the conference committee report on Engrossed SB 2029 as printed on SJ pages 1365-1367 be adopted, which motion prevailed on a voice vote.

Engrossed SB 2029, as amended, was placed on the Eleventh order.

SECOND READING OF SENATE BILL

SB 2029: A BILL for an Act to create and enact a new subsection to section 26.1-08-01, a new subdivision to subsection 4 of section 26.1-08-12, a new subdivision to subsection 10 of section 26.1-08-12, and a new subdivision to subsection 11 of section 26.1-08-12 of the North Dakota Century Code, relating to health insurance coverage through the comprehensive health association of North Dakota; and to amend and reenact subdivision e of subsection 12 of section 26.1-08-12 and section 54-03-28 of the North Dakota Century Code, relating to health insurance coverage through the comprehensive health association of North Dakota and legislative measures mandating health insurance coverage of services.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 29 YEAS, 17 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

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

NAYS: Bercier; Christenson; Every; Fairfield; Heitkamp; Krauter; Krebsbach; Lindaas; Mathern; Nelson; Nichols; O'Connell; Polovitz; Robinson; Seymour; Tallackson; Taylor

ABSENT AND NOT VOTING: Fischer

Reengrossed SB 2029 passed and the title was agreed to.

CONSIDERATION OF CONFERENCE COMMITTEE REPORT

SEN. J. LEE MOVED that the conference committee report on Engrossed SB 2083 as printed on SJ page 1367 be adopted, which motion prevailed on a voice vote.

Engrossed SB 2083, as amended, was placed on the Eleventh order.

SECOND READING OF SENATE BILL

SB 2083: A BILL for an Act to create and enact a new section to chapter 50-06.2 of the North Dakota Century Code, relating to disqualifying transfers for determining eligibility for service payments for elderly and disables; to amend and reenact section 50-06.2-03 of the North Dakota Century Code, relating to the eligibility resource limits of the service payments for elderly and disabled; and to provide statements of legislative intent.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 29 YEAS, 17 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

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

NAYS: Bercier; Christenson; Espegard; Every; Fairfield; Heitkamp; Krauter; Lindaas; Mathern; Nelson; Nichols; O'Connell; Polovitz; Robinson; Seymour; Tallackson; Taylor

ABSENT AND NOT VOTING: Fischer

Reengrossed SB 2083 passed and the title was agreed to.

CONSIDERATION OF CONFERENCE COMMITTEE REPORT

SEN. G. LEE MOVED that the conference committee report on Reengrossed SB 2135 as printed on SJ pages 1367-1368 be adopted, which motion prevailed on a voice vote.

Reengrossed SB 2135, as amended, was placed on the Eleventh order.

SECOND READING OF SENATE BILL

SB 2135: A BILL for an Act to provide for national certification of teachers; and to provide an appropriation.

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; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Mutch; Nelson; Nething; Nichols; O'Connell; Robinson; Schobinger; Seymour; Stenehjelm; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

NAYS: Polovitz

ABSENT AND NOT VOTING: Fischer

Reengrossed SB 2135 passed and the title was agreed to.

CONSIDERATION OF CONFERENCE COMMITTEE REPORT

SEN. WARDNER MOVED that the conference committee report on Engrossed SB 2249 as printed on SJ page 1368 be adopted, which motion prevailed on a voice vote.

Engrossed SB 2249, as amended, was placed on the Eleventh order.

SECOND READING OF SENATE BILL

SB 2249: A BILL for an Act to create and enact a new section to chapter 55-02 of the North Dakota Century Code, relating to protection of historical sites; to amend and reenact section 55-02-07 and subsection 2 of section 55-10-08 of the North Dakota Century Code, relating to the powers of the state historical board; to provide for a legislative council study of the protection of historical or archaeological artifacts or sites; to provide for application; 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 38 YEAS, 8 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

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

NAYS: Christenson; Fairfield; Grindberg; Holmberg; Mathern; Nelson; Nothing; O'Connell

ABSENT AND NOT VOTING: Fischer

Reengrossed SB 2249 passed, the title was agreed to, and the emergency clause was declared carried.

CONSIDERATION OF CONFERENCE COMMITTEE REPORT

SEN. ESPEGARD MOVED that the conference committee report on Engrossed SB 2308 as printed on SJ page 1368 be adopted, which motion prevailed on a voice vote.

Engrossed SB 2308, as amended, was placed on the Eleventh order.

MOTION

SEN. STENEHJEM MOVED that SB 2308, which is on the Eleventh order, be laid over one legislative day, which motion prevailed.

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 2010, SB 2029, SB 2083, SB 2135.

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 2249.

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 1469.

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 2018, SB 2023, SB 2024, SB 2025, SB 2045, SB 2086, SB 2160, SB 2255, SB 2282, SB 2334.

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

MR. SPEAKER: The President has signed: HB 1006, HB 1008, HB 1014, HB 1043, HB 1051, HB 1088, HB 1112, HB 1123, HB 1438, HB 1504, HCR 3078, HCR 3079.

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

MR. PRESIDENT: The House accedes to the Senate request for the return of: SB 2190.

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 1009, HB 1264, HB 1372, HB 1397, HCR 3037.

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

MR. PRESIDENT: The House has adopted the conference committee reports on SB 2148, SB 2188, SB 2235, SB 2363, and SB 2384.

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 2149, SB 2150.

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

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

SB 2012: Reps. Delzer; Warnke; Kerzman

SB 2013: Reps. Monson; Martinson; Aarsvold

SB 2335: Reps. Skarphol; Carlisle; Gulleson

SB 2416: Reps. Kempenich; Brusegaard; Warner

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 8:15 a.m., Tuesday, April 15, 2003, which motion prevailed.

REPORT OF CONFERENCE COMMITTEE

SB 2248, as engrossed: Your conference committee (Sens. Brown, Dever, Fairfield and Reps. Klemm, Sitte, Potter) recommends that the **HOUSE RECEDE** from the House amendments on SJ page 908, adopt amendments as follows, and place SB 2248 on the Seventh order:

That the House recede from its amendments as printed on page 908 of the Senate Journal and page 1004 of the House Journal and that Engrossed Senate Bill No. 2248 be amended as follows:

Page 2, replace lines 23 and 24 with "A completed application must be submitted"

Page 2, line 25, remove "received from applicants"

Page 2, line 26, replace "each" with "the"

Page 3, line 27, after "auditor" insert "either"

Page 3, line 28, after "instructions" insert "or send to the qualified elector the ballot and instructions by facsimile"

Renumber accordingly

Engrossed SB 2248 was placed on the Seventh order of business on the calendar.

REPORT OF CONFERENCE COMMITTEE

HB 1009, as engrossed: Your conference committee (Sens. Schobinger, Christmann, Tallackson and Reps. Martinson, Monson, Aarsvold) recommends that the **HOUSE ACCEDE** to the Senate amendments on HJ page 1321 and place HB 1009 on the Seventh order.

Engrossed HB 1009 was placed on the Seventh order of business on the calendar.

REPORT OF CONFERENCE COMMITTEE

HB 1264, as engrossed: Your conference committee (Sens. Klein, Mutch, Heitkamp and Reps. Kasper, Froseth, Boe) recommends that the **SENATE RECEDE** from the Senate amendments on HJ page 1189, adopt amendments as follows, and place HB 1264 on the Seventh order:

That the Senate recede from its amendments as printed on page 1189 of the House Journal and page 1045 of the Senate Journal and that Engrossed House Bill No. 1264 be amended as follows:

Page 1, line 14, remove "a"

Page 1, line 15, replace "licensee to the owners of the licensee who were owners as of January 1," with "business entity licensed as an insurance producer for crop insurance between August 1, 2001, and December 31, 2002."

Page 1, remove line 16

Page 1, line 23, replace "twenty-five" with "thirty-five"

Renumber accordingly

Engrossed HB 1264 was placed on the Seventh order of business on the calendar.

REPORT OF CONFERENCE COMMITTEE

HB 1372, as engrossed: Your conference committee (Sens. Nething, Trenbeath, Taylor and Reps. Weisz, Headland, Schmidt) recommends that the **SENATE RECEDE** from the Senate amendments on HJ pages 1145-1146, adopt amendments as follows, and place HB 1372 on the Seventh order:

That the Senate recede from its amendments as printed on pages 1145 and 1146 of the House Journal and page 988 of the Senate Journal and that Engrossed House Bill No. 1372 be amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact section 49-11-19 of the North Dakota Century Code, relating to obstructing a crossing by a train; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 49-11-19 of the North Dakota Century Code is amended and reenacted as follows:

49-11-19. Blocking or obstructing crossing with train - Penalty. No

1. A person shall may not operate any train in ~~such~~ a manner as to prevent vehicular use of any roadway for a period of time in excess of ten consecutive minutes except:
 - 1- a. When necessary to comply with safety signals affecting the safety of the movement of trains;
 - 2- b. When necessary to avoid striking any object or person on the track;
 - 3- c. When the train is disabled, by accident or otherwise;
 - 4- d. When the train is in motion except when engaged in switching operations or loading or unloading operations;
 - 5- e. When ~~there is no~~ vehicular traffic is not waiting to use the crossing; ~~or~~
 - 6- f. When necessary to comply with a government statute or regulation; or
 - g. When allowed by written agreement between the governmental entity that controls the roadway and the interested commercial entities. The agreement must indicate which party is responsible for the timely notification of local emergency service providers regarding the crossing that will be blocked and the period of time the crossing will be blocked. Any
2. A person who that violates this section is guilty of ~~an infraction~~ a class B misdemeanor. ~~The provisions of this~~ This section does not apply to ~~cities which have on the date of such obstruction ordinances~~ a city that has an ordinance covering the same subject matter."

Renumber accordingly

Engrossed HB 1372 was placed on the Seventh order of business on the calendar.

REPORT OF CONFERENCE COMMITTEE

HB 1397, as reengrossed: Your conference committee (Sens. Mutch, Krebsbach, Every and Reps. Hawken, Williams, Norland) recommends that the **SENATE RECEDE** from the Senate amendments on HJ page 953, adopt amendments as follows, and place HB 1397 on the Seventh order:

That the Senate recede from its amendments as printed on page 953 of the House Journal and page 755 of the Senate Journal and that Reengrossed House Bill No. 1397 be amended as follows:

Page 1, line 9, replace "but may not advertise to the general public its willingness" with "provided any person that wishes to enter a contract with the board under this section first demonstrates to the satisfaction of the board that there are no private entities able and willing"

Page 1, line 11, replace "Before the" with "The" and replace "enters a contract as provided under" with "may not advertise to the general public its willingness to provide meals, snacks, or other food services for persons or programs not affiliated with the district."

Page 1, remove lines 12 and 13

Renumber accordingly

Reengrossed HB 1397 was placed on the Seventh order of business on the calendar.

REPORT OF CONFERENCE COMMITTEE

HCR 3037: Your conference committee (Sens. Brown, Erbele, Polovitz and Reps. Grande, Kingsbury, Onstad) recommends that the **SENATE RECEDE** from the Senate amendments on SJ pages 1079-1080, adopt amendments as follows, and place HCR 3037 on the Seventh order:

That the Senate recede from its amendments as printed on pages 1079 and 1080 of the House Journal and pages 941 and 942 of the Senate Journal and that House Concurrent Resolution No. 3037 be amended as follows:

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; the impact and availability of community services; the state's criminal justice process from arrest to release; alternatives to incarceration; and the effectiveness of incarceration and treatment.

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; the impact and availability of community services; the state's criminal justice process from arrest to release; alternatives to incarceration; and the effectiveness of incarceration and treatment; 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

HCR 3037 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

