

## JOURNAL OF THE SENATE

## Fifty-ninth Legislative Assembly

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Bismarck, March 22, 2005

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

The prayer was offered by Senator Krauter.

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

A quorum was declared by the President.

**COMMUNICATION FROM GOVERNOR JOHN HOEVEN**

This is to inform you that on March 21, 2005, I have signed the following: SB 2071, SB 2079, SB 2113, SB 2175, SB 2355, SB 2367, and SB 2369.

**CONSIDERATION OF AMENDMENTS**

**HB 1408, as engrossed: SEN. LYSON (Human Services Committee) MOVED** that the amendments on SJ pages 930-931 be adopted and then be **REREFERRED** to the **Appropriations Committee** with **DO PASS**, which motion prevailed.

**CONSIDERATION OF AMENDMENTS**

**HB 1433, as engrossed: SEN. J. LEE (Government and Veterans Affairs Committee) MOVED** that the amendments on SJ pages 931-932 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

**CONSIDERATION OF AMENDMENTS**

**HB 1438, as engrossed: SEN. TRIPLETT (Political Subdivisions Committee) MOVED** that the amendments on SJ page 932 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

**CONSIDERATION OF AMENDMENTS**

**HB 1453, as engrossed: SEN. SYVERSON (Government and Veterans Affairs Committee) MOVED** that the amendments on SJ page 933 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

**MOTION**

**SEN. CHRISTMANN MOVED** that Engrossed HB 1239, which is on the Fourteenth order, be laid over two legislative days, which motion prevailed.

**SECOND READING OF HOUSE BILL**

**HB 1376:** A BILL for an Act to create and enact chapter 26.1-53 of the North Dakota Century Code, relating to duties of providers and marketers of discount medical plans and cards; and to declare an emergency.

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

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

**ABSENT AND NOT VOTING:** Schobinger

HB 1376, as amended, passed, the title was agreed to, and the emergency clause was declared carried.

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**SECOND READING OF HOUSE BILL**

**HB 1484:** A BILL for an Act to create and enact section 12-60-16.11 of the North Dakota Century Code, relating to obtaining criminal history record information; and to amend and reenact section 12-60-16.6 of the North Dakota Century Code, relating to the dissemination of criminal history record information.

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

**YEAS:** Andrist; Bercier; Bowman; Brown; Christmann; Cook; Dever; Erbele; Espgaard; Every; Fairfield; Fischer; Flakoll; Freborg; Grindberg; Hacker; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Mutch; Nelson; Nething; O'Connell; Robinson; Seymour; Stenehjerm; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Triplett; Urlacher; Wardner; Warner

**ABSENT AND NOT VOTING:** Schobinger

Engrossed HB 1484, as amended, passed and the title was agreed to.

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**SECOND READING OF HOUSE BILL**

**HB 1148:** A BILL for an Act to create and enact two new sections to Senate Bill No. 2185, as approved by the fifty-ninth legislative assembly, relating to the effective date of the medical assistance buy-in program for individuals with disabilities; to amend and reenact section 50-24.1-18.1 of the North Dakota Century Code, relating to personal care services for eligible medical assistance recipients who are residing in their own homes; to provide an effective date; and to declare an emergency.

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

**YEAS:** Andrist; Bercier; Bowman; Brown; Christmann; Cook; Dever; Erbele; Espgaard; Every; Fairfield; Fischer; Flakoll; Freborg; Grindberg; Hacker; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Mutch; Nelson; Nething; O'Connell; Robinson; Seymour; Stenehjerm; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Triplett; Urlacher; Wardner; Warner

**ABSENT AND NOT VOTING:** Schobinger

Engrossed HB 1148, as amended, passed, the title was agreed to, and the emergency clause was declared carried.

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**SECOND READING OF HOUSE BILL**

**HB 1279:** A BILL for an Act to create and enact a new section to chapter 23-20.3 of the North Dakota Century Code, relating to contaminated properties; to amend and reenact sections 11-33-01 and 40-47-01 and subsection 1 of section 58-03-11 of the North Dakota Century Code, relating to institutional controls by counties, cities, and townships; to provide a continuing appropriation; and to declare an emergency.

**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; Bercier; Bowman; Brown; Christmann; Cook; Dever; Erbele; Espgaard; Every; Fairfield; Fischer; Flakoll; Freborg; Grindberg; Hacker; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Mutch; Nelson; Nething; O'Connell; Robinson; Seymour; Stenehjerm; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Triplett; Urlacher; Wardner; Warner

**ABSENT AND NOT VOTING:** Schobinger

Reengrossed HB 1279 passed, the title was agreed to, and the emergency clause was declared carried.

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**THE SENATE RECOGNIZED THE PRESENCE OF:**

Former Senator Jim Dotzenrod.

**SECOND READING OF HOUSE BILL**

**HB 1130:** A BILL for an Act to amend and reenact section 14-02.4-18 of the North Dakota Century Code, relating to prohibiting retaliatory acts against participants in discriminatory practices actions.

**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; Bercier; Bowman; Brown; Christmann; Cook; Dever; Erbele; Espgaard; Every; Fairfield; Fischer; Flakoll; Freborg; Grindberg; Hacker; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Mutch; Nelson; Nething; O'Connell; Robinson; Seymour; Stenehjerm; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Triplett; Urlacher; Wardner; Warner

**ABSENT AND NOT VOTING:** Schobinger

HB 1130 passed and the title was agreed to.

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**SECOND READING OF HOUSE BILL**

**HB 1431:** A BILL for an Act to amend and reenact sections 16.1-04-03 and 16.1-05-01 and subdivision a of subsection 1 of section 16.1-05-02 of the North Dakota Century Code, relating to precincts, polling places, and election officers.

**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 42 YEAS, 4 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bercier; Bowman; Brown; Christmann; Cook; Dever; Erbele; Espgaard; Every; Fischer; Flakoll; Freborg; Grindberg; Hacker; Holmberg; Kilzer; Klein; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Mutch; Nelson; Nething; Robinson; Seymour; Stenehjerm; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Triplett; Urlacher; Wardner; Warner

**NAYS:** Fairfield; Heitkamp; Krauter; O'Connell

**ABSENT AND NOT VOTING:** Schobinger

HB 1431 passed and the title was agreed to.

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**SECOND READING OF HOUSE BILL**

**HB 1511:** A BILL for an Act to amend and reenact sections 32-09.1-05, 32-09.1-10, and 32-09.1-14 of the North Dakota Century Code, relating to garnishment disclosure fees and default judgments.

**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; Christmann; Cook; Dever; Erbele; Espgaard; Fischer; Flakoll; Freborg; Grindberg; Hacker; Holmberg; Kilzer; Klein; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Nelson; Nething; Robinson; Seymour; Stenehjerm; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Triplett; Urlacher; Wardner; Warner

**NAYS:** Bercier; Every; Fairfield; Heitkamp; Krauter; Mutch; O'Connell

**ABSENT AND NOT VOTING:** Schobinger

HB 1511 passed and the title was agreed to.

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

**HB 1517:** A BILL for an Act to amend and reenact subsection 1 of section 57-02-01 and subdivision a of subsection 15 of section 57-02-08 of the North Dakota Century Code, relating to classification of greenhouse property as agricultural property for assessment purposes and property exempt from taxation; and to provide an effective date.

### **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 32 YEAS, 14 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bercier; Brown; Christmann; Erbele; Espegard; Every; Fairfield; Freborg; Hacker; Heitkamp; Krauter; Krebsbach; Kringstad; Lindaas; Lyson; Mathern; Nothing; O'Connell; Robinson; Seymour; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Triplett; Urlacher; Wardner; Warner

**NAYS:** Bowman; Cook; Dever; Fischer; Flakoll; Grindberg; Holmberg; Kilzer; Klein; Lee, G.; Lee, J.; Mutch; Nelson; Stenehjem

**ABSENT AND NOT VOTING:** Schobinger

Engrossed HB 1517 passed and the title was agreed to.

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

**HCR 3048:** A concurrent resolution for the amendment of section 24 of article X of the Constitution of North Dakota, relating to expenditures from the foundation aid stabilization fund.

### **ROLL CALL**

The question being on the final adoption of the amended resolution, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 27 YEAS, 18 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bercier; Brown; Cook; Dever; Erbele; Espegard; Every; Fischer; Flakoll; Grindberg; Kilzer; Klein; Lindaas; Lyson; Nothing; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Triplett; Urlacher; Wardner

**NAYS:** Bowman; Christmann; Fairfield; Freborg; Hacker; Heitkamp; Holmberg; Krauter; Krebsbach; Lee, G.; Lee, J.; Mathern; Mutch; Nelson; O'Connell; Robinson; Trenbeath; Warner

**ABSENT AND NOT VOTING:** Kringstad; Schobinger

Engrossed HCR 3048, as amended, was declared adopted, and the title was agreed to on a roll call vote.

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### **CONSIDERATION OF MESSAGE FROM THE HOUSE**

**SEN. J. LEE MOVED** that the Senate do not concur in the House amendments to Engrossed SB 2266 as printed on SJ pages 896-897 and that a conference committee be appointed to meet with a like committee from the House, which motion prevailed on a voice vote.

### **APPOINTMENT OF CONFERENCE COMMITTEE**

**THE PRESIDENT APPOINTED** as a Conference Committee on Engrossed SB 2266: Sens. Brown, Lyson, Warner.

**MOTION**

**SEN. CHRISTMANN MOVED** that Engrossed HB 1074 be placed at the bottom of the Twelfth order, which motion prevailed.

**MOTION**

**SEN. CHRISTMANN MOVED** that SB 2237, which is on the Twelfth order, be laid over one legislative day, which motion prevailed.

**MOTION**

**SEN. CHRISTMANN 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 1092, Engrossed HB 1190, Engrossed HB 1191, Engrossed HB 1200, Engrossed HB 1205, HB 1286, and Engrossed HB 1402, which motion prevailed.

**APPOINTMENT OF CONFERENCE COMMITTEE**

**THE PRESIDENT ANNOUNCED** the following appointments to a Conference Committee on Engrossed HB 1092: Sens. Hacker, Dever, Fairfield.

**APPOINTMENT OF CONFERENCE COMMITTEE**

**THE PRESIDENT ANNOUNCED** the following appointments to a Conference Committee on Engrossed HB 1190: Sens. Lyson, Dever, Warner.

**APPOINTMENT OF CONFERENCE COMMITTEE**

**THE PRESIDENT ANNOUNCED** the following appointments to a Conference Committee on Engrossed HB 1191: Sens. Lyson, Dever, Warner.

**APPOINTMENT OF CONFERENCE COMMITTEE**

**THE PRESIDENT ANNOUNCED** the following appointments to a Conference Committee on Engrossed HB 1200: Sens. Dever, J. Lee, Brown.

**APPOINTMENT OF CONFERENCE COMMITTEE**

**THE PRESIDENT ANNOUNCED** the following appointments to a Conference Committee on Engrossed HB 1205: Sens. Syverson, Hacker, Triplett.

**APPOINTMENT OF CONFERENCE COMMITTEE**

**THE PRESIDENT ANNOUNCED** the following appointments to a Conference Committee on HB 1286: Sens. Trenbeath, Syverson, Nelson.

**APPOINTMENT OF CONFERENCE COMMITTEE**

**THE PRESIDENT ANNOUNCED** the following appointments to a Conference Committee on Engrossed HB 1402: Sens. Lyson, Traynor, Heitkamp.

**CONSIDERATION OF MESSAGE FROM THE HOUSE**

**SEN. J. LEE MOVED** that the Senate do concur in the House amendments to Engrossed SB 2073 as printed on SJ pages 828-829, which motion prevailed on a voice vote.

Engrossed SB 2073, as amended, was placed on the Eleventh order of business.

**SECOND READING OF SENATE BILL**

**SB 2073:** A BILL for an Act to create and enact a new subsection to section 43-48-03 of the North Dakota Century Code, relating to exemptions from clinical laboratory personnel licensures; and to amend and reenact subsection 6 of section 43-48-03 of the North Dakota Century Code, relating to clinical laboratory personnel licensure.

**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, 0 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bercier; Bowman; Brown; Christmann; Cook; Dever; Erbele; Espgaard; Every; Fairfield; Fischer; Flakoll; Freborg; Hacker; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Mutch; Nelson; Nothing; O'Connell; Robinson; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Triplett; Urlacher; Wardner; Warner

**ABSENT AND NOT VOTING:** Grindberg; Kringstad; Schobinger

Reengrossed SB 2073 passed and the title was agreed to.

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**CONSIDERATION OF MESSAGE FROM THE HOUSE**

**SEN. COOK MOVED** that the Senate do concur in the House amendments to Engrossed SB 2325 as printed on SJ page 829, which motion prevailed on a voice vote.

Engrossed SB 2325, as amended, was placed on the Eleventh order of business.

**SECOND READING OF SENATE BILL**

**SB 2325:** A BILL for an Act to amend and reenact section 54-21.3-08 of the North Dakota Century Code, relating to installation of manufactured homes; 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 43 YEAS, 1 NAY, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bercier; Bowman; Brown; Christmann; Cook; Dever; Erbele; Espegard; Every; Fairfield; Fischer; Flakoll; Freborg; Hacker; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Mutch; Nelson; Nething; O'Connell; Robinson; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Triplett; Urlacher; Wardner; Warner

**NAYS:** Trenbeath

**ABSENT AND NOT VOTING:** Grindberg; Kringstad; Schobinger

Reengrossed SB 2325 passed and the title was agreed to.

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**CONSIDERATION OF MESSAGE FROM THE HOUSE**

**SEN. URLACHER MOVED** that the Senate do concur in the House amendments to SB 2362 as printed on SJ page 829, which motion prevailed on a voice vote.

SB 2362, as amended, was placed on the Eleventh order of business.

**SECOND READING OF SENATE BILL**

**SB 2362:** A BILL for an Act to amend and reenact subdivision u of subsection 1 of section 57-38-01.2 and subdivision g of subsection 2 of section 57-38-30.3 of the North Dakota Century Code, relating to income tax deduction for income of national guard and reserve volunteers for federal active duty; 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 44 YEAS, 0 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

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

**ABSENT AND NOT VOTING:** Grindberg; Kringstad; Schobinger

Engrossed SB 2362 passed and the title was agreed to.

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**CONSIDERATION OF MESSAGE FROM THE HOUSE**

**SEN. FREBORG MOVED** that the Senate do concur in the House amendments to Engrossed SB 2375 as printed on SJ page 876, which motion prevailed on a voice vote.

Engrossed SB 2375, as amended, was placed on the Eleventh order of business.

**SECOND READING OF SENATE BILL**

**SB 2375:** A BILL for an Act relating to a unified system of licensure and credential qualifications or reciprocity between North Dakota and each state bordering North Dakota.

**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, 0 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bercier; Bowman; Brown; Christmann; Cook; Dever; Erbele; Espegard; Every; Fairfield; Fischer; Flakoll; Freborg; Hacker; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Mutch; Nelson; Nothing; O'Connell; Robinson; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Triplett; Urlacher; Wardner; Warner

**ABSENT AND NOT VOTING:** Grindberg; Kringstad; Schobinger

Reengrossed SB 2375 passed and the title was agreed to.

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#### **CONSIDERATION OF MESSAGE FROM THE HOUSE**

**SEN. URLACHER MOVED** that the Senate do concur in the House amendments to Engrossed SB 2393 as printed on SJ page 829, which motion prevailed on a voice vote.

Engrossed SB 2393, as amended, was placed on the Eleventh order of business.

#### **SECOND READING OF SENATE BILL**

**SB 2393:** A BILL for an Act to provide for a legislative council study of sales, use, and gross receipts tax exemptions and rate reductions.

#### **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, 6 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bercier; Bowman; Brown; Christmann; Cook; Dever; Erbele; Espegard; Fischer; Flakoll; Freborg; Hacker; Holmberg; Kilzer; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Mutch; Nelson; Nothing; Robinson; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Triplett; Urlacher; Wardner; Warner

**NAYS:** Every; Fairfield; Heitkamp; Klein; Krauter; O'Connell

**ABSENT AND NOT VOTING:** Grindberg; Kringstad; Schobinger

Reengrossed SB 2393 passed and the title was agreed to.

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#### **CONSIDERATION OF MESSAGE FROM THE HOUSE**

**SEN. LYSON MOVED** that the Senate do concur in the House amendments to Engrossed SB 2290 as printed on SJ page 874, which motion prevailed on a voice vote.

Engrossed SB 2290, as amended, was placed on the Eleventh order of business.

#### **SECOND READING OF SENATE BILL**

**SB 2290:** A BILL for an Act to amend and reenact subsection 32 of section 20.1-03-12 and sections 20.1-12-04, 20.1-12-05, and 20.1-12-06 of the North Dakota Century Code, relating to the operation and regulation of private shooting preserves.

#### **ROLL CALL**

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 43 YEAS, 1 NAY, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bercier; Bowman; Brown; Christmann; Cook; Dever; Erbele; Espegard; Every; Fairfield; Fischer; Flakoll; Freborg; Hacker; Heitkamp; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Mutch; Nelson; Nothing; O'Connell; Robinson; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Triplett; Urlacher; Wardner; Warner

**NAYS:** Holmberg

**ABSENT AND NOT VOTING:** Grindberg; Kringstad; Schobinger

Reengrossed SB 2290 passed and the title was agreed to.

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**CONSIDERATION OF MESSAGE FROM THE HOUSE**

**SEN. TRAYNOR MOVED** that the Senate do concur in the House amendments to Engrossed SB 2378 as printed on SJ page 897, which motion prevailed on a voice vote.

Engrossed SB 2378, as amended, was placed on the Eleventh order of business.

**SECOND READING OF SENATE BILL**

**SB 2378:** A BILL for an Act to amend and reenact section 32-09.1-09 of the North Dakota Century Code, relating to the garnishment disclosure form.

**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, 0 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bercier; Bowman; Brown; Christmann; Cook; Dever; Erbele; Espgaard; Every; Fairfield; Fischer; Flakoll; Freborg; Hacker; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Mutch; Nelson; Nething; O'Connell; Robinson; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Triplett; Urlacher; Wardner; Warner

**ABSENT AND NOT VOTING:** Grindberg; Kringstad; Schobinger

Reengrossed SB 2378 passed and the title was agreed to.

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**CONSIDERATION OF MESSAGE FROM THE HOUSE**

**SEN. TRAYNOR MOVED** that the Senate do concur in the House amendments to Engrossed SB 2232 as printed on SJ page 803, which motion prevailed on a voice vote.

Engrossed SB 2232, as amended, was placed on the Eleventh order of business.

**SECOND READING OF SENATE BILL**

**SB 2232:** A BILL for an Act to create and enact section 32-19-06.2 of the North Dakota Century Code, relating to deficiency judgments on agricultural land; to amend and reenact sections 28-23-04, 28-24-02, 32-19-01, 32-19-03, 32-19-04, 32-19-06, 32-19-06.1, 32-19-07, 32-19-08, 32-19-09, 32-19-10, 32-19-11, 32-19-18, 32-19-20, 32-19-21, 32-19-22, 32-19-23, 32-19-24, 32-19-25, 32-19-26, 32-19-28, 32-19-29, 32-19-37, 32-19-38, 32-19-39, 32-19-40, and 32-19-41 and subdivision a of subsection 1 of section 35-03-09 of the North Dakota Century Code, relating to foreclosure of a mortgage; and to repeal sections 32-19-05, 32-19-12, 32-19-13, 32-19-14, 32-19-15, 32-19-16, 32-19-17, 32-19-30, 32-19-31, 32-19-32, 32-19-33, and 32-19-34 and chapter 32-19.1 of the North Dakota Century Code, relating to foreclosure of a mortgage.

**ROLL CALL**

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 43 YEAS, 1 NAY, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bercier; Bowman; Brown; Christmann; Cook; Dever; Erbele; Espgaard; Every; Fischer; Flakoll; Freborg; Hacker; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Mutch; Nelson; Nething; O'Connell; Robinson; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Triplett; Urlacher; Wardner; Warner

**NAYS:** Fairfield

**ABSENT AND NOT VOTING:** Grindberg; Kringstad; Schobinger

Reengrossed SB 2232 passed and the title was agreed to.

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**CONSIDERATION OF MESSAGE FROM THE HOUSE**

**SEN. TRAYNOR MOVED** that the Senate do concur in the House amendments to Engrossed SB 2335 as printed on SJ page 830, which motion prevailed on a voice vote.

Engrossed SB 2335, as amended, was placed on the Eleventh order of business.



**SECOND READING OF SENATE BILL**

**SB 2335:** A BILL for an Act to create and enact chapter 51-29 of the North Dakota Century Code, relating to gift certificate sales, expiration dates, and service or maintenance fees; to provide a penalty; 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, 0 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bercier; Bowman; Brown; Christmann; Cook; Dever; Erbele; Espesgaard; Every; Fairfield; Fischer; Flakoll; Freborg; Hacker; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Mutch; Nelson; Nothing; O'Connell; Robinson; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Triplett; Urlacher; Wardner; Warner

**ABSENT AND NOT VOTING:** Grindberg; Kringstad; Schobinger

Reengrossed SB 2335 passed, the title was agreed to, and the emergency clause was declared carried.

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**MOTION**

**SEN. CHRISTMANN MOVED** that Engrossed SB 2133, which is on the Twelfth order, be laid over one legislative day, which motion prevailed.

**CONSIDERATION OF MESSAGE FROM THE HOUSE**

**SEN. HOLMBERG MOVED** that the Senate do concur in the House amendments to Engrossed SB 2006 as printed on SJ pages 894-895, which motion prevailed on a voice vote.

Engrossed SB 2006, as amended, was placed on the Eleventh order of business.

**SECOND READING OF SENATE BILL**

**SB 2006:** A BILL for an Act to provide an appropriation for defraying the expenses of the aeronautics commission.

**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, 3 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bercier; Bowman; Brown; Christmann; Cook; Dever; Erbele; Espesgaard; Every; Fairfield; Fischer; Flakoll; Freborg; Hacker; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Mutch; Nelson; Nothing; Robinson; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Triplett; Urlacher; Wardner

**NAYS:** Mathern; O'Connell; Warner

**ABSENT AND NOT VOTING:** Grindberg; Kringstad; Schobinger

Reengrossed SB 2006 passed and the title was agreed to.

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

**MR. SPEAKER:** The Senate has concurred in the House amendments and subsequently passed: SB 2006, SB 2073, SB 2232, SB 2290, SB 2325, SB 2335, SB 2362, SB 2375, SB 2378, and SB 2393.

**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 1092:** Sens. Hacker; Dever; Fairfield

**HB 1190:** Sens. Lyson; Dever; Warner

**HB 1191:** Sens. Lyson; Dever; Warner

**HB 1200:** Sens. Dever; J. Lee; Brown

**HB 1205:** Sens. Syverson; Hacker; Triplett

**HB 1286:** Sens. Trenbeath; Syverson; Nelson

**HB 1402:** Sens. Lyson; Traynor; Heitkamp

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

**MR. SPEAKER:** The Senate does not concur in the House amendments to SB 2266 and the President has appointed as a conference committee to act with a like committee from the House on:

**SB 2266:** Sens. Brown; Lyson; Warner

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

**MR. SPEAKER:** The Senate has passed unchanged: HB 1130, HB 1431, HB 1511, HB 1517.

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

**MR. SPEAKER:** The Senate has passed, the emergency clause carried, unchanged: HB 1279.

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

**MR. SPEAKER:** The Senate has amended and subsequently passed: HB 1484, HCR 3048.

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

**MR. SPEAKER:** The Senate has amended, subsequently passed, and the emergency clause carried: HB 1148, HB 1376.

**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 2078:** Reps. Sitte; Horter; Mueller

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

**MR. PRESIDENT:** The House does not concur in the Senate amendments to HB 1028, HB 1314, HB 1342, and HB 1347 and the Speaker has appointed as a conference committee to act with a like committee from the Senate on:

**HB 1028:** Reps. Nottestad; Froseth; Ekstrom

**HB 1314:** Reps. Ruby; Vigesaa; Ekstrom

**HB 1342:** Reps. Iverson; Vigesaa; S. Meyer

**HB 1347:** Reps. Froseth; Dosch; Thorpe

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

**MR. PRESIDENT:** The House has amended and subsequently passed: SB 2047, SB 2361.

**HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2047**

Page 1, line 1, after the fourth comma insert "and"

Page 1, line 2, remove ", and 26.1-41-19"

Page 5, line 9, remove "For the"

Page 5, remove lines 10 and 11

Page 5, line 12, remove "included."

Page 8, remove lines 15 through 31

Page 9, remove lines 1 through 14

ReNUMBER accordingly

**HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2361**

Page 1, line 1, remove "to create and enact a new section to chapter 14-03 of the North Dakota"

Page 1, line 2, remove "Century Code, relating to premarital counseling; and"

Page 1, line 13, overstrike "also"

Page 1, line 14, replace "ninety-four" with "thirty-five"

Page 1, line 15, remove ", except if"

Page 1, remove lines 16 through 22

Page 1, line 23, remove "premarital counseling"

Page 2, remove lines 18 through 31

Page 3, remove lines 1 through 7

Renumber accordingly

**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 1161, HB 1165, HB 1186, HB 1193, HB 1211, HB 1225, HB 1383.

**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, Thirteenth, and Sixteenth orders of business and at the conclusion of those orders, the Senate stand adjourned until 1:00 p.m., Wednesday, March 23, 2005, which motion prevailed.

**REPORT OF STANDING COMMITTEE**

**HB 1060, as engrossed: Industry, Business and Labor Committee (Sen. Mutch, Chairman)** recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1060 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1061, as engrossed and amended: Appropriations Committee (Sen. Holmberg, Chairman)** recommends **DO PASS** (13 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). Engrossed HB 1061, as amended, was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1105: 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). HB 1105 was placed on the Sixth order on the calendar.

Page 1, line 1, after "reenact" insert "subsection 14 of section 49-21-01.7 and"

Page 1, line 2, after "to" insert "numbering resource authority and"

Page 1, after line 3, insert:

**"SECTION 1. AMENDMENT.** Subsection 14 of section 49-21-01.7 of the North Dakota Century Code is amended and reenacted as follows:

14. Investigate and resolve numbering issues relating to assignment of NII dialing codes and resolve numbering resource conservation administration and area code assignment issues in accordance with the federal communication commission's numbering resource orders. The commission's jurisdiction with regard to numbering resource conservation administration is limited to those prefixes that are unassigned on January 1, 2005."

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**HB 1124: Industry, Business and Labor Committee (Sen. Mutch, Chairman)** recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1124 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1127: Industry, Business and Labor Committee (Sen. Espgaard, Chairman)** recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1127 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1152: Appropriations Committee (Sen. Holmberg, Chairman)** recommends **DO PASS** (8 YEAS, 2 NAYS, 5 ABSENT AND NOT VOTING). HB 1152 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1164, as engrossed: Industry, Business and Labor Committee (Sen. Espgaard, Chairman)** recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1164 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1195: Industry, Business and Labor Committee (Sen. Mutch, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). HB 1195 was placed on the Sixth order on the calendar.

Page 1, line 6, after the semicolon insert "to provide for a legislative council study;"

Page 2, remove lines 14 through 31

Page 3, remove lines 1 through 31

Page 4, line 1, replace "4." with "2."

Page 4, line 11, replace "5." with "3."

Page 4, line 17, replace "6." with "4."

Page 6, after line 25, insert:

**"SECTION 5. LEGISLATIVE COUNCIL STUDY - PROFESSIONAL EMPLOYER ORGANIZATIONS.** The legislative council shall consider studying, during the 2005-06 interim, the feasibility and desirability of requiring professional employer organizations operating in North Dakota to register with the state. The study must include consideration of how other states address the issue of registration of professional employer organizations. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixtieth legislative assembly."

ReNUMBER accordingly

**REPORT OF STANDING COMMITTEE**

**HB 1201, as engrossed: Judiciary Committee (Sen. Traynor, Chairman)** recommends **DO NOT PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1201 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1209: Finance and Taxation Committee (Sen. Urlacher, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1209 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with " for an Act to amend and reenact section 57-01-05 of the North Dakota Century Code, relating to an annual audit of property tax assessments and property tax exemption decisions; and to provide an appropriation.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. AMENDMENT.** Section 57-01-05 of the North Dakota Century Code is amended and reenacted as follows:

**57-01-05. State supervisor of assessments.** The state tax commissioner shall appoint a supervisor of assessments who must be a person trained and experienced in property appraisals and familiar with assessment and equalization procedures and techniques. The supervisor of assessments serves at the pleasure of the state tax commissioner and office space must be furnished to the supervisor of assessments by the commissioner.

The supervisor of assessments shall perform the following duties under the direction of the tax commissioner:

1. The supervisor of assessments shall advise and give the various assessors in the state the necessary instructions and directions as to their duties under the laws of this state, to the end that a uniform assessment of all real and personal property in this state will be attained.
2. The supervisor of assessments shall assist and instruct the various assessors in this state in the use of soil reconnaissance surveys, land classification methods, in the preparation and proper use of land maps and record cards, in the proper classification of real and personal property, and in the determination of proper standards of value.
3. The supervisor of assessments may require the attendance of groups of assessors at meetings called by the supervisor of assessments for the purpose of giving them further assistance and instruction as to their duties.
4. The supervisor of assessments may make sales, market, and productivity studies and other studies of property assessments in the various counties and cities of this state for the purpose of properly advising the various assessors and directors of tax equalization in the state and for the purpose of recommending to the tax commissioner changes to be made by the state board of equalization in the performance of the equalization powers and duties prescribed for it by section 57-13-04. In any sales, market, and productivity study made according to section 57-01-06, the county directors of tax equalization or city assessors, as the case may be, are responsible for compiling a record of sales of property made in the county or city, and in conjunction with the county commissioners shall analyze the sales for the purpose of advising the state supervisors of assessments as to the value of using the sales in any such study. The compilations must be forwarded to the state supervisor of assessments with the findings of the county director of tax equalization, city assessors, and the board of county commissioners. In any county or city or any part thereof where the number of sales of properties is insufficient for making a sales, market, and productivity study, the county director of tax equalization or city assessor, as the case may be, in cooperation with the state supervisor of assessments or that person's assistants shall make appraisals of properties in order to determine the market value.
5. The supervisor of assessments shall cooperate with North Dakota state university in the development of a soil mapping program, a land classification system, valuation studies, and other matters relating to the assessment of property and shall provide for the use of such information and procedure at the earliest possible date by the assessors of this state.
6. The supervisor of assessments has general supervision of assessors and county directors of tax equalization pertaining to methods and procedures of assessment of all property and has authority to require all county directors of tax equalization to do any act necessary to obtain uniform methods and procedures of assessment.
7. Within the limits of legislative appropriations, the supervisor of assessments shall cause an annual random audit to be performed of property assessments statewide in each classification of property under section 57-02-27 and of property tax exemptions allowed or denied under subsection 15 of section 57-02-08 and of valuations under section 57-02-14 of real property exempt from taxation. Audits must focus on assessment and equalization decisions, accuracy, uniformity, and compliance with state law and directives and advice of the state supervisor of assessments. The state supervisor of assessments shall prepare results, findings, and recommendations of annual audits conducted under this subsection for presentation to the state board of equalization and to a committee designated by the legislative council.
8. The supervisor of assessments shall perform such other duties relating to assessment and taxation of property as the tax commissioner directs.

**SECTION 2. APPROPRIATION.** There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$200,000, or so much of the sum as may be necessary, to the tax commissioner for the purpose of random property tax audits as directed by the supervisor of assessments under section 57-01-05, for the biennium beginning July 1, 2005, and ending June 30, 2007."

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**HB 1293, as engrossed: Judiciary Committee (Sen. Traynor, Chairman)** recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1293 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1414, as engrossed: Education Committee (Sen. Freborg, Chairman)** recommends **BE PLACED ON THE CALENDAR WITHOUT RECOMMENDATION** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1414 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1489, as engrossed: Education Committee (Sen. Freborg, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (4 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1489 was placed on the Sixth order on the calendar.

Page 1, line 6, after the boldfaced period insert "1."

Page 1, line 10, replace "parent" with "parents"

Page 1, line 12, replace "1." with "a."

Page 1, line 13, replace "2." with "b."

Page 1, line 14, replace "3." with "c."

Page 1, line 15, replace "4." with "d."

Page 1, line 16, replace "5." with "e."

Page 1, after line 17, insert:

"2. If a student's parents maintain joint custody of the student, the school may send a report to each of the student's parents."

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**HB 1496, as engrossed: Finance and Taxation Committee (Sen. Urlacher, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). Engrossed HB 1496 was placed on the Sixth order on the calendar.

Page 1, line 9, after "hydrogen" insert "to power an internal combustion engine or fuel cell" and after "used" insert "directly and exclusively"

Page 1, line 10, replace the first comma with "and", remove ", and transportation", and after "of" insert "the"

Page 1, line 11, after "facility" insert "in this state" and after the period insert "For purposes of this subsection, "storage" means stationary and portable hydrogen containers or pressure vessels, piping, tubing, fittings, gaskets, controls, valves, gauges, pressure regulators, safety relief devices, and other accessories intended for hydrogen storage containers or pressure vessels."

Page 1, line 14, replace "be used for any" with "power an internal combustion engine or fuel cell"

Page 1, line 15, remove "purpose"

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**HB 1520, as engrossed: Judiciary Committee (Sen. Traynor, Chairman)** recommends **DO NOT PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1520 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1522, 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 1522 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact chapter 51-30 of the North Dakota Century Code, relating to regulation of sale and delivery of tobacco products; and to declare an emergency.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1.** Chapter 51-30 of the North Dakota Century Code is created and enacted as follows:

**51-30-01. Prohibited acts regarding sale of tobacco products to minors.** It is unlawful for any person in the business of selling tobacco products to take an order for a tobacco product, other than from a person who is in the business of selling tobacco products, through the mail or through any telecommunications means, including by telephone, facsimile, or the internet, if in providing for the sale or delivery of the product pursuant to the order, the person mails the product or ships the product by carrier, and the person fails to comply with each of the following procedures:

1. Before mailing or shipping the product, the person receives from the individual who places the order the following:
  - a. A copy of a valid government-issued document that provides the name, address, and date of birth of the individual;
  - b. A signed statement from the individual providing a certification that the individual:
    - (1) Is a smoker of legal minimum purchase age in the state;
    - (2) Has selected an option on the statement as to whether the individual wants to receive mailings from a tobacco company; and
    - (3) Understands that providing false information may constitute a violation of law.
2. Before mailing or shipping the product, the person:
  - a. Verifies the date of birth or age of the individual against a commercially available data base; or
  - b. Obtains a photocopy or other image of the valid, government-issued identification stating the date of birth or age of the person placing the order.
3. Before mailing or shipping the product, the person provides to the prospective purchaser, by electronic mail or other means, a notice that meets the requirements of section 51-30-04.
4. In the case of an order for a product pursuant to an advertisement on the internet, the person receives payment by credit card, debit card, or check for the order before mailing or shipping the product.
5. a. The person employs a method of mailing or shipping the product requiring that the individual purchasing the product:
  - (1) Be the addressee;

- (2) Have an individual of legal minimum purchase age sign for delivery of the package; and
  - (3) If the individual appears to the carrier making the delivery to be under twenty-seven years of age, take delivery of the package only after producing valid government-issued identification that bears a photograph of the individual, indicates that the individual is not under the legal age to purchase cigarettes, and indicates that the individual is not younger than the age indicated on the government-issued document.
- b. The bill of lading clearly states the requirements in subdivision a and specifies that state law requires compliance with the requirements.
6. The person notifies the carrier for the mailing or shipping, in writing, of the age of the addressee as indicated by the government-issued document.

**51-30-02. Rule of construction regarding common carriers.** This chapter may not be construed as imposing liability upon any common carrier, or officer or employee of the carrier when acting within the scope of business of the common carrier.

**51-30-03. E-mail addresses.** Persons taking delivery sale orders may request that prospective purchasers provide their e-mail addresses.

**51-30-04. Disclosure requirements.** The notice required under subsection 3 of section 51-30-01 must include:

1. A prominent and clearly legible statement that cigarette sales to consumers below the legal minimum age are illegal;
2. A prominent and clearly legible statement that consists of one of the warnings set forth in section 4(a)(1) of the Federal Cigarette Labeling and Advertising Act [15 U.S.C. 1333(a)(1)] rotated on a quarterly basis;
3. A prominent and clearly legible statement that sales of cigarettes are restricted to those consumers who provide verifiable proof of age in accordance with section 51-30-01; and
4. A prominent and clearly legible statement that cigarette sales are subject to tax under sections 57-36-06 and 57-36-32, and an explanation of how the tax has been, or is to be, paid with respect to the delivery sale.

**51-30-05. Registration and reporting requirements.**

1. Before making delivery sales or shipping cigarettes in connection with those sales, every person shall file with the tax commissioner a statement setting forth the person's name, trade name, and the address of the person's principal place of business and any other place of business.
2. Not later than the tenth day of each month, each person that has made a delivery sale or shipped or delivered cigarettes in connection with any sale during the previous calendar month shall file with the tax commissioner a memorandum or a copy of the invoice, which provides for each delivery sale:
  - a. The name and address of the individual to whom the delivery sale was made;
  - b. The brand or brands of the cigarettes that were sold in the delivery sale; and
  - c. The quantity of cigarettes that were sold in the delivery sale.

**51-30-06. Taxes.** Each person accepting a purchase order for a delivery sale of any tobacco product shall remit to the tax commissioner any taxes due under chapter 57-36 with respect to the delivery sale. This section does not apply if the person has obtained proof, in the form of the presence of applicable tax stamps or otherwise, that the taxes already have been paid to this state.



**51-30-07. Penalties.**

1. Except as otherwise provided in this section, a person that violates this chapter is subject to a fine of not more than one thousand dollars. In the case of a second or subsequent violation of this chapter, the person is subject to a fine of not less than one thousand dollars nor more than five thousand dollars.
2. Any person who knowingly violates any provision of this chapter is guilty of a class C felony.
3. Any individual who knowingly and falsely submits a certification under subdivision a of subsection 5 of section 51-30-01 in another individual's name is guilty of a noncriminal offense and is subject to the penalty provided under subsection 1.
4. Any person that fails to pay any tax required in connection with a delivery sale shall pay, in addition to any other penalty, a penalty of fifty percent of the tax due but unpaid.
5. Any cigarettes sold or attempted to be sold in a delivery sale that does not meet the requirements of this chapter are forfeited to the state and must be destroyed.

**51-30-08. Enforcement.** The attorney general or any person who holds a permit under 26 U.S.C. 5712 may bring an action in the appropriate court in the state to prevent or restrain violations of this chapter by any person or any person controlling that person.

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

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**HCR 3032, as engrossed: Human Services Committee (Sen. J. Lee, Chairman)** recommends **DO NOT PASS** (4 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). Engrossed HCR 3032 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HCR 3043: Human Services Committee (Sen. J. Lee, Chairman)** recommends **DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HCR 3043 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HCR 3046: Education Committee (Sen. Freborg, Chairman)** recommends **DO NOT PASS** (3 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING). HCR 3046 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HCR 3050: Human Services Committee (Sen. J. Lee, Chairman)** recommends **DO NOT PASS** (4 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). HCR 3050 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HCR 3051: Education Committee (Sen. Freborg, Chairman)** recommends **DO NOT PASS** (3 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING). HCR 3051 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HCR 3054: Human Services Committee (Sen. J. Lee, Chairman)** recommends **DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HCR 3054 was placed on the Fourteenth order on the calendar.

**FIRST READING OF HOUSE BILLS**

**HB 1523:** A BILL for an Act to create and enact a new section to chapter 54-35 of the North Dakota Century Code, relating to creation of a legislative council workers' compensation review committee; and to provide an expiration date.

Was read the first time and referred to the **Industry, Business and Labor Committee**.

**HB 1526:** A BILL for an Act to create and enact a new section to chapter 54-17 of the North Dakota Century Code, relating to creation of an industrial commission tribal-state guaranty program; and to provide a continuing appropriation.

Was read the first time and referred to the **Industry, Business and Labor Committee**.

**HB 1527:** A BILL for an Act to create and enact a new section to chapter 43-51 of the North Dakota Century Code, relating to military service member exceptions to occupational licensing board license renewal requirements; to provide for application; and to declare an emergency.

Was read the first time and referred to the **Human Services Committee**.

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

**William R. Horton, Secretary**