

JOURNAL OF THE HOUSE

Fifty-ninth Legislative Assembly

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Bismarck, March 23, 2005

The House convened at 1:00 p.m., with Speaker Klein presiding.

The prayer was offered by Pastor Roger Will, Evangel Temple Assembly of God, Bismarck.

The roll was called and all members were present.

A quorum was declared by the Speaker.

COMMUNICATION FROM GOVERNOR JOHN HOEVEN

This is to inform you that on March 21, 2005, I have signed the following: HB 1044, HB 1057, HB 1103, HB 1106, HB 1149, HB 1159, HB 1176, HB 1179, HB 1197, HB 1213, HB 1221, HB 1229, HB 1232, and HB 1240.

Also, on March 22, 2005, I have signed the following: HB 1327, HB 1336, HB 1364, HB 1427, HB 1429, HB 1430, HB 1432, HB 1448, and HB 1506.

CORRECTION AND REVISION OF THE JOURNAL

MR. SPEAKER: Your **Committee on Correction and Revision of the Journal (Rep. Kretschmar, Chairman)** has carefully examined the Journal of the fifth second Day and recommends that it be corrected as follows and when so corrected, recommends that it be approved:

Page 1233, remove lines 32 through 35

REP. KRETSCHMAR MOVED that the report be adopted, which motion prevailed.

REPORT OF STANDING COMMITTEE

SB 2146: Appropriations Committee (Rep. Svedjan, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (21 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). SB 2146 was placed on the Sixth order on the calendar.

Page 1, line 3, after "payments" insert "; to create and enact a new subdivision to subsection 2 of section 57-38-30.3 of the North Dakota Century Code, relating to individual income tax deductions" and after "penalty" insert "; to provide an effective date"

Page 1, line 13, after "in" insert "sections 1 through 9 of"

Page 3, line 15, after "under" insert "sections 1 through 9 of"

Page 3, line 22, after "under" insert "sections 1 through 9 of"

Page 3, line 24, after "under" insert "sections 1 through 9 of"

Page 4, line 9, after "under" insert "sections 1 through 9 of"

Page 4, line 14, after "under" insert "sections 1 through 9 of"

Page 4, line 21, after "under" insert "sections 1 through 9 of"

Page 4, line 22, after "taxes" insert ", including taxes determined under section 57-38-29 or 57-38-30.3,"

Page 4, line 24, after "under" insert "sections 1 through 9 of"

Page 4, line 28, after "administer" insert "sections 1 through 9 of"

Page 5, line 1, after "of" insert "sections 1 through 9 of"

Page 5, line 2, after "of" insert "sections 1 through 9 of"

Page 5, line 9, after "under" insert "section 5 of"

Page 5, after line 9, insert:

"SECTION 10. A new subdivision to subsection 2 of section 57-38-30.3 of the North Dakota Century Code is created and enacted as follows:

Reduced by the amount of any payment received by a veteran or beneficiary of a veteran under section 3 or 4 of this Act.

SECTION 11. EFFECTIVE DATE. Section 10 of this Act is effective for taxable years beginning after December 31, 2004."

Renumber accordingly

SIXTH ORDER OF BUSINESS

SB 2146: REP. KLEMIN (Government and Veterans Affairs Committee) MOVED that the amendments be adopted, which motion prevailed.

MOTION

REP. MONSON MOVED that SB 2146, as amended, be placed on the Fourteenth order for immediate second reading, which motion prevailed.

SECOND READING OF SENATE BILL

SB 2146: A BILL for an Act to provide adjusted compensation for eligible resident veterans and for the filing and payment of claims, duties of the adjutant general, and exemption from taxation and execution for such payments; to create and enact a new subdivision to subsection 2 of section 57-38-30.3 of the North Dakota Century Code, relating to individual income tax deductions; to provide a penalty; 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 94 YEAS, 0 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

YEAS: Aarsvold; Amerman; Bellew; Belter; Berg; Bernstein; Boe; Boehning; Boucher; Brandenburg; Brusegaard; Carlisle; Carlson; Charging; Clark; Conrad; Damschen; DeKrey; Delmore; Delzer; Devlin; Dietrich; Dosch; Drovdal; Ekstrom; Froelich; Froseth; Galvin; Glassheim; Grande; Guleson; Haas; Hanson; Hawken; Headland; Herbel; Horter; Hunsakor; Iverson; Johnson, D.; Johnson, N.; Kaldor; Kasper; Keiser; Kelsch, R.; Kelsh, S.; Kempenich; Kerzman; Kingsbury; Klemin; Koppelman; Kreidt; Kretschmar; Kroeber; Maragos; Martinson; Meier, L.; Metcalf; Meyer, S.; Monson; Mueller; Nelson; Nicholas; Norland; Nottestad; Onstad; Owens; Pietsch; Pollert; Porter; Potter; Price; Rennerfeldt; Ruby; Sandvig; Schmidt; Sitte; Skarphol; Solberg; Svedjan; Thoreson; Thorpe; Timm; Uglem; Vigesaa; Wald; Wall; Weiler; Weisz; Wieland; Williams; Wrangham; Zaiser; Speaker Klein

SB 2146, as amended, passed, the title was agreed to, and the emergency clause was declared carried.

SIXTH ORDER OF BUSINESS

SB 2037: REP. SKARPHOL (Appropriations Committee) MOVED that the amendments on HJ pages 1238-1239 be adopted with **DO PASS**, which motion prevailed on a verification vote.

MOTION

REP. MONSON MOVED that SB 2037, as amended, be placed on the Fourteenth order for immediate second reading, which motion prevailed.

SECOND READING OF SENATE BILL

SB 2037: A BILL for an Act to create and enact a new section to chapter 15-10 and a new section to chapter 54-59 of the North Dakota Century Code, relating to higher education information technology and information technology planning; and to amend and reenact subsection 11 of section 28-32-01 and sections 54-35-15.2, 54-59-02.1, 54-59-05, 54-59-07, 54-59-09, 54-59-11, 54-59-19, 54-59-21, and 54-59-22 of the North Dakota Century Code, relating to exclusion of certain policies, standards, and guidelines of the information technology department from compliance with the Administrative Agencies

Practice Act, powers and duties of the information technology committee and the information technology department, prioritization of proposed major information technology projects, access to the criminal justice information sharing system, and information technology plans and reports.

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 71 YEAS, 23 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

YEAS: Bellew; Belter; Berg; Bernstein; Boe; Boehning; Boucher; Brandenburg; Brusegaard; Carlisle; Carlson; Charging; Clark; Conrad; Damschen; DeKrey; Devlin; Dietrich; Drovdal; Ekstrom; Froelich; Froseth; Galvin; Glassheim; Grande; Haas; Hawken; Headland; Herbel; Horter; Iverson; Johnson, D.; Johnson, N.; Kasper; Kelsch, R.; Kelsch, S.; Kempenich; Kingsbury; Klemm; Koppelman; Kreidt; Kretschmar; Martinson; Monson; Nelson; Nicholas; Norland; Nottestad; Owens; Pietsch; Pollert; Porter; Potter; Price; Rennerfeldt; Ruby; Sitte; Skarphol; Svedjan; Thoreson; Thorpe; Timm; Uglem; Vigasaa; Wald; Wall; Weiler; Weisz; Wieland; Zaiser; Speaker Klein

NAYS: Aarsvold; Amerman; Delmore; Delzer; Dosch; Gulleeson; Hanson; Hunsakor; Kaldor; Keiser; Kerzman; Kroeber; Maragos; Meier, L.; Metcalf; Meyer, S.; Mueller; Onstad; Sandvig; Schmidt; Solberg; Williams; Wrangham

SB 2037, as amended, passed and the title was agreed to.

SIXTH ORDER OF BUSINESS

SPEAKER KLEIN DEEMED approval of SB 2009 SB 2016, SB 2101, SB 2120, SB 2168, SB 2254, SB 2302, SB 2308, SB 2333, SB 2343, SB 2370, SB 2372, SB 2374, SB 2384 and SCR 4030.

SB 2009, SB 2016, SB 2101, SB 2120, SB 2168, SB 2254, SB 2302, SB 2308, SB 2333, SB 2343, SB 2370, SB 2372, SB 2374, SB 2384 and SCR 4030, as amended, were placed on the Fourteenth order of business on the calendar.

SPECIAL ORDER OF BUSINESS TO HONOR 141ST ENGINEERS COMBAT BATTALION

Dear Hero,

A thousand words could never describe how much you mean to me. Everyday I wake up and think of you, wondering where you are and what your're doing. I always wonder how you do it because I know that I never could. It takes a special person to do what you do.

To live a full life, you must dream. Everyone has dreams. I wonder if you dreamt of being a lawyer. . .or a nurse. . .or a doctor. I wonder if you dreamt of being a soldier. Whatever your dreams may be, I pray that they come true. If anyone deserves to live their dreams, it is you.

According to Webster's Dictionary, a patriot is someone who loves, supports, and defends one's country. I do believe this to be true, but I also believe there is so much more to the meaning. You are a patriot, in their lives. You see things that no one should ever have to see. You get up early and go to bed late. You work hard, everyday. Why? You do it because you love, support, and defend your country.

When I attend events like basketball games or football games, I wait patiently for the National Anthem to be sung. When I listen to the words, I remember you, and I remember what you have done. Each note that is played sends a thrill of pride deep into my soul and makes me want to be like you. It makes me want to do something so incredible and so selfless, like you have done. It makes me so happy to be an American. So happy to be in the land of the free.

I can think of one thing right now and that is Toby Keith's "American Soldier." "When liberty's in jeopardy, I will always do what's right." The words ring so true; I get chills everytime I listen to this song. "And I will always do my duty no matter what the price; I've counted up the cost, I know the sacrifice." That's what you do, and what you've done. You have sacrificed your normal life, your time, and your energy. You're out there every day, fighting; and who for? For me. For the nation. You took a stand when others wouldn't. You do what needs to be done because you know that freedom isn't free.

I think to myself, what's my hero doing right now? I know what - doing it all. Loving, supporting, and defending. I pray for your safety and comfort everyday, and send my love to

you. America is the land of the free, because of the brave. The brave like you. You truly are a hero.

With love and support,
Brianna Headland

MOTION

REP. BERG MOVED that the remarks of Brianna Headland be printed in the Journal, which motion prevailed.

REMARKS OF REP. MERLE BOUCHER

MR. SPEAKER:
LADIES AND GENTLEMEN OF THE ASSEMBLY:
MEMBERS OF THE 141st:
FAMILY MEMBERS:
SPECIAL GUESTS OF THE MILITARY AND CITIZENS

Those of us who serve in the House of Representatives take honor in serving in the citizen's body. We are especially proud of our service in the capacity of a citizen legislator.

Today we as a collective citizen body who serve in this hallowed chamber, pay special honor to those special citizens who are in our presence. These special guests have taken citizenship to its highest level; that is to serve one's country as a citizen soldier.

We extend to you our deepest respect for your service in the face of great danger, to your families for the sacrifices and hardships they have endured during your absence, and to your colleagues who didn't return.

Thank you very much.

REMARKS OF REP. RICK BERG RECOGNIZING MEMBERS OF THE 141ST

It is right to honor these soldiers and the people they represent, but I think that they honor us with their presence. . . it is said, that the highest form of love is when someone lays their life down for a friend...these men and women are willing to do this for us and they know men and women who have done this for all of us.

They epitomize what is best in human nature and what is best in America...it would do us well to emulate them and their selflessness.

Thank you for helping preserve and spread democracy...a government of the people, by the people and for the people.

Fellow colleagues, please join me in standing and thanking these soldiers one more time.

SECOND READING OF SENATE BILL

SB 2102: A BILL for an Act to amend and reenact subsection 3 of section 39-08-01 of the North Dakota Century Code, relating to driving under the influence of intoxicating liquor repeat offenders and impounding motor vehicle license plates.

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 43 YEAS, 51 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

YEAS: Aarsvold; Bellew; Berg; Bernstein; Boehning; Brandenburg; Carlisle; Carlson; Charging; Conrad; Dosch; Drovdal; Grande; Herbel; Horter; Iverson; Johnson, D.; Kaldor; Keiser; Kelsch, R.; Kempenich; Kingsbury; Klemin; Maragos; Martinson; Nicholas; Nottestad; Owens; Pietsch; Pollert; Porter; Potter; Price; Ruby; Sitte; Skarphol; Svedjan; Uglem; Vigesaa; Weiler; Weisz; Wieland; Speaker Klein

NAYS: Amerman; Belter; Boe; Boucher; Brusegaard; Clark; Damschen; DeKrey; Delmore; Delzer; Devlin; Dietrich; Ekstrom; Froelich; Froseth; Galvin; Glassheim; Guleson; Haas; Hanson; Hawken; Headland; Hunskor; Johnson, N.; Kasper; Kelsh, S.; Kerzman; Koppelman; Kreidt; Kretschmar; Kroeber; Meier, L.; Metcalf; Meyer, S.; Monson; Mueller; Nelson; Norland; Onstad; Rennerfeldt; Sandvig; Schmidt; Solberg; Thoreson; Thorpe; Timm; Wald; Wall; Williams; Wrangham; Zaiser

SB 2102 lost.

SECOND READING OF SENATE BILL

SB 2096: A BILL for an Act to amend and reenact section 26.1-40-18 of the North Dakota Century Code, relating to automobile warranty contracts and requirements relating to contractual liability insurance for warranty providers.

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 94 YEAS, 0 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

YEAS: Aarsvold; Amerman; Bellew; Belter; Berg; Bernstein; Boe; Boehning; Boucher; Brandenburg; Brusegaard; Carlisle; Carlson; Charging; Clark; Conrad; Damschen; DeKrey; Delmore; Delzer; Devlin; Dietrich; Dosch; Drovdal; Ekstrom; Froelich; Froseth; Galvin; Glassheim; Grande; Gulleason; Haas; Hanson; Hawken; Headland; Herbel; Horter; Hunskor; Iverson; Johnson, D.; Johnson, N.; Kaldor; Kasper; Keiser; Kelsch, R.; Kelsh, S.; Kempenich; Kerzman; Kingsbury; Klemin; Koppelman; Kreidt; Kretschmar; Kroeber; Maragos; Martinson; Meier, L.; Metcalf; Meyer, S.; Monson; Mueller; Nelson; Nicholas; Norland; Nottestad; Onstad; Owens; Pietsch; Pollert; Porter; Potter; Price; Rennerfeldt; Ruby; Sandvig; Schmidt; Sitte; Skarphol; Solberg; Svedjan; Thoreson; Thorpe; Timm; Uglem; Vigesaa; Wald; Wall; Weiler; Weisz; Wieland; Williams; Wrangham; Zaiser; Speaker Klein

SB 2096 passed and the title was agreed to.

SECOND READING OF SENATE BILL

SB 2200: A BILL for an Act to create and enact a new section to chapter 51-07 of the North Dakota Century Code, relating to recording devices on motor vehicles; and to provide for application.

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 84 YEAS, 10 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

YEAS: Aarsvold; Amerman; Bellew; Belter; Berg; Boe; Boehning; Boucher; Brandenburg; Brusegaard; Carlisle; Carlson; Charging; Clark; Conrad; Damschen; DeKrey; Delmore; Delzer; Devlin; Dosch; Drovdal; Ekstrom; Froelich; Froseth; Glassheim; Grande; Gulleason; Hanson; Hawken; Headland; Herbel; Horter; Hunskor; Johnson, D.; Johnson, N.; Kaldor; Kelsch, R.; Kelsh, S.; Kempenich; Kingsbury; Klemin; Koppelman; Kreidt; Kretschmar; Kroeber; Maragos; Martinson; Meier, L.; Metcalf; Meyer, S.; Monson; Mueller; Nelson; Nicholas; Norland; Nottestad; Onstad; Owens; Pietsch; Pollert; Porter; Potter; Price; Rennerfeldt; Sandvig; Schmidt; Sitte; Skarphol; Solberg; Svedjan; Thoreson; Thorpe; Timm; Uglem; Wald; Wall; Weiler; Weisz; Wieland; Williams; Wrangham; Zaiser; Speaker Klein

NAYS: Bernstein; Dietrich; Galvin; Haas; Iverson; Kasper; Keiser; Kerzman; Ruby; Vigesaa

Engrossed SB 2200 passed and the title was agreed to.

SECOND READING OF SENATE BILL

SB 2208: A BILL for an Act to amend and reenact sections 24-02-01.5 and 39-01-01, subdivision c of subsection 2 of section 39-06.1-06, sections 39-08-18, 39-08-19, 39-21-41.2, and 51-20-01, and subsection 9 of section 57-40.3-04 of the North Dakota Century Code, relating to motor vehicle child restraint systems.

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 64 YEAS, 30 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

YEAS: Aarsvold; Amerman; Berg; Bernstein; Boe; Boehning; Boucher; Brandenburg; Carlisle; Charging; Conrad; DeKrey; Delmore; Devlin; Dietrich; Dosch; Ekstrom; Galvin; Glassheim; Gulleason; Hanson; Hawken; Herbel; Horter; Hunskor; Iverson; Johnson, D.;

Johnson, N.; Kaldor; Keiser; Kelsch, R.; Kelsh, S.; Kingsbury; Klemin; Koppelman; Kreidt; Kretschmar; Kroeber; Maragos; Martinson; Metcalf; Meyer, S.; Mueller; Nelson; Nottestad; Onstad; Owens; Pietsch; Porter; Potter; Price; Sandvig; Schmidt; Solberg; Svedjan; Thorpe; Uglem; Vigasaa; Wall; Weiler; Wieland; Williams; Zaiser; Speaker Klein

NAYS: Bellew; Belter; Brusegaard; Carlson; Clark; Damschen; Delzer; Drovdal; Froelich; Froseth; Grande; Haas; Headland; Kasper; Kempenich; Kerzman; Meier, L.; Monson; Nicholas; Norland; Pollert; Rennerfeldt; Ruby; Sitte; Skarphol; Thoreson; Timm; Wald; Weisz; Wrangham

SB 2208 passed and the title was agreed to.

SECOND READING OF SENATE BILL

SB 2348: A BILL for an Act to amend and reenact sections 39-04.2-03 and 39-04.2-04 of the North Dakota Century Code, relating to funding of public transportation.

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

YEAS: Aarsvold; Amerman; Belter; Berg; Bernstein; Boe; Boehning; Brandenburg; Carlisle; Charging; Clark; Conrad; Damschen; DeKrey; Delmore; Devlin; Dietrich; Dosch; Drovdal; Ekstrom; Froelich; Froseth; Galvin; Glassheim; Grande; Gulleson; Haas; Hanson; Hawken; Headland; Herbel; Horter; Hunskor; Iverson; Johnson, D.; Johnson, N.; Kaldor; Kasper; Keiser; Kelsch, R.; Kelsh, S.; Kempenich; Kerzman; Kingsbury; Klemin; Kreidt; Kretschmar; Kroeber; Maragos; Martinson; Meier, L.; Metcalf; Meyer, S.; Monson; Mueller; Nelson; Nicholas; Norland; Nottestad; Onstad; Owens; Pietsch; Pollert; Porter; Potter; Price; Rennerfeldt; Sandvig; Schmidt; Sitte; Skarphol; Solberg; Svedjan; Thoreson; Thorpe; Timm; Uglem; Vigasaa; Wald; Wall; Weiler; Weisz; Wieland; Williams; Wrangham; Zaiser; Speaker Klein

NAYS: Bellew; Brusegaard; Carlson; Delzer; Koppelman; Ruby

ABSENT AND NOT VOTING: Boucher

SB 2348 passed and the title was agreed to.

SECOND READING OF SENATE BILL

SB 2340: A BILL for an Act to amend and reenact subsection 1 of section 53-06.2-02, subsection 3 of section 53-06.2-11, and section 53-06.2-13 of the North Dakota Century Code, relating to the North Dakota racing commission; 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 87 YEAS, 6 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Aarsvold; Amerman; Berg; Bernstein; Boe; Boehning; Boucher; Brandenburg; Carlisle; Carlson; Charging; Clark; Conrad; Damschen; DeKrey; Delmore; Delzer; Devlin; Dietrich; Dosch; Drovdal; Ekstrom; Froelich; Froseth; Galvin; Glassheim; Grande; Gulleson; Haas; Hanson; Hawken; Headland; Herbel; Horter; Hunskor; Iverson; Johnson, D.; Johnson, N.; Kaldor; Kasper; Keiser; Kelsch, R.; Kelsh, S.; Kempenich; Kerzman; Kingsbury; Klemin; Koppelman; Kreidt; Kretschmar; Kroeber; Maragos; Martinson; Meier, L.; Metcalf; Meyer, S.; Mueller; Nelson; Nicholas; Norland; Nottestad; Onstad; Owens; Porter; Potter; Price; Rennerfeldt; Ruby; Sandvig; Schmidt; Sitte; Skarphol; Solberg; Svedjan; Thoreson; Thorpe; Timm; Uglem; Vigasaa; Wald; Wall; Weiler; Weisz; Wieland; Williams; Wrangham; Zaiser

NAYS: Bellew; Belter; Monson; Pietsch; Pollert; Speaker Klein

ABSENT AND NOT VOTING: Brusegaard

SB 2340 passed, the title was agreed to, and the emergency clause was declared carried.

SECOND READING OF SENATE BILL

SB 2118: A BILL for an Act to amend and reenact section 50-06-15 of the North Dakota Century Code, relating to confidentiality of information contained in department of human services records; and to provide a penalty.

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 94 YEAS, 0 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

YEAS: Aarsvold; Amerman; Bellew; Belter; Berg; Bernstein; Boe; Boehning; Boucher; Brandenburg; Brusegaard; Carlisle; Carlson; Charging; Clark; Conrad; Damschen; DeKrey; Delmore; Delzer; Devlin; Dietrich; Dosch; Drovdal; Ekstrom; Froelich; Froseth; Galvin; Glassheim; Grande; Guleson; Haas; Hanson; Hawken; Headland; Herbel; Horter; Hunskor; Iverson; Johnson, D.; Johnson, N.; Kaldor; Kasper; Keiser; Kelsch, R.; Kelsh, S.; Kempenich; Kerzman; Kingsbury; Klemin; Koppelman; Kreidt; Kretschmar; Kroeber; Maragos; Martinson; Meier, L.; Metcalf; Meyer, S.; Monson; Mueller; Nelson; Nicholas; Norland; Nottestad; Onstad; Owens; Pietsch; Pollert; Porter; Potter; Price; Rennerfeldt; Ruby; Sandvig; Schmidt; Sitte; Skarphol; Solberg; Svedjan; Thoreson; Thorpe; Timm; Uglem; Vigasaa; Wald; Wall; Weiler; Weisz; Wieland; Williams; Wrangham; Zaiser; Speaker Klein

SB 2118 passed and the title was agreed to.

SECOND READING OF SENATE BILL

SB 2204: A BILL for an Act to amend and reenact section 13-01-14 of the North Dakota Century Code, relating to the amount of late payment charges on medical bills.

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 76 YEAS, 18 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

YEAS: Aarsvold; Berg; Bernstein; Boe; Boehning; Boucher; Brandenburg; Brusegaard; Carlisle; Carlson; Charging; Clark; Conrad; Damschen; Delmore; Devlin; Dietrich; Dosch; Ekstrom; Froelich; Froseth; Galvin; Glassheim; Grande; Haas; Hanson; Hawken; Headland; Herbel; Horter; Hunskor; Iverson; Johnson, D.; Johnson, N.; Kaldor; Kasper; Keiser; Kelsch, R.; Kelsh, S.; Kerzman; Kingsbury; Klemin; Kreidt; Kretschmar; Maragos; Martinson; Meier, L.; Metcalf; Meyer, S.; Monson; Mueller; Nelson; Norland; Nottestad; Onstad; Owens; Pietsch; Pollert; Porter; Potter; Price; Rennerfeldt; Sandvig; Schmidt; Sitte; Skarphol; Solberg; Thoreson; Thorpe; Uglem; Vigasaa; Wall; Weisz; Williams; Zaiser; Speaker Klein

NAYS: Amerman; Bellew; Belter; DeKrey; Delzer; Drovdal; Guleson; Kempenich; Koppelman; Kroeber; Nicholas; Ruby; Svedjan; Timm; Wald; Weiler; Wieland; Wrangham

Engrossed SB 2204 passed and the title was agreed to.

SECOND READING OF SENATE BILL

SB 2139: A BILL for an Act to amend and reenact section 50-30-02 of the North Dakota Century Code, relating to the North Dakota health care trust fund; and to repeal section 50-24.4-30 of the North Dakota Century Code, relating to the government nursing facility funding pool.

ROLL CALL

The question being on the final passage of the bill, which has been read, and has committee recommendation of DO NOT PASS, the roll was called and there were 2 YEAS, 92 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

YEAS: Boucher; Conrad

NAYS: Aarsvold; Amerman; Bellew; Belter; Berg; Bernstein; Boe; Boehning; Brandenburg; Brusegaard; Carlisle; Carlson; Charging; Clark; Damschen; DeKrey; Delmore; Delzer; Devlin; Dietrich; Dosch; Drovdal; Ekstrom; Froelich; Froseth; Galvin; Glassheim;

Grande; Gulleeson; Haas; Hanson; Hawken; Headland; Herbel; Horter; Hunsakor; Iverson; Johnson, D.; Johnson, N.; Kaldor; Kasper; Keiser; Kelsch, R.; Kelsh, S.; Kempenich; Kerzman; Kingsbury; Klemin; Koppelman; Kreidt; Kretschmar; Kroeber; Maragos; Martinson; Meier, L.; Metcalf; Meyer, S.; Monson; Mueller; Nelson; Nicholas; Norland; Nottestad; Onstad; Owens; Pietsch; Pollert; Porter; Potter; Price; Rennerfeldt; Ruby; Sandvig; Schmidt; Sitte; Skarphol; Solberg; Svedjan; Thoreson; Thorpe; Timm; Uglem; Vigesaa; Wald; Wall; Weiler; Weisz; Wieland; Williams; Wrangham; Zaiser; Speaker Klein

Engrossed SB 2139 lost.

MOTION

REP. MONSON MOVED that SB 2304, which is on the Fourteenth order, be rereferred to the **Human Services Committee**, which motion prevailed. Pursuant to Rep. Monson's motion, SB 2304 was rereferred.

MOTION

REP. MONSON MOVED that HB 1524, which is on the Eleventh order, be rereferred to the **Appropriations Committee**, which motion prevailed. Pursuant to Rep. Monson's motion, HB 1524 was rereferred.

MOTION

REP. MONSON MOVED that SB 2217 be returned to the House floor from the **Appropriations Committee** and be rereferred to the **Finance and Taxation Committee**, which motion prevailed.

SECOND READING OF SENATE BILL

SB 2366: A BILL for an Act to create and enact chapter 43-26.1 of the North Dakota Century Code, relating to the practice of physical therapy; to amend and reenact subsection 1 of section 10-31-04 of the North Dakota Century Code, relating to statutory cross-reference; to repeal chapter 43-26 of the North Dakota Century Code, relating to the practice of physical therapy; and to provide a penalty.

ROLL CALL

The question being on the final passage of the bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 50 YEAS, 44 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

YEAS: Aarsvold; Bellew; Belter; Berg; Brusegaard; Carlisle; Conrad; Damschen; DeKrey; Delmore; Dietrich; Galvin; Haas; Herbel; Horter; Johnson, D.; Johnson, N.; Kaldor; Keiser; Kelsch, R.; Kingsbury; Klemin; Kreidt; Kroeber; Maragos; Martinson; Monson; Nelson; Nicholas; Norland; Nottestad; Owens; Pietsch; Porter; Potter; Price; Rennerfeldt; Ruby; Schmidt; Sitte; Skarphol; Solberg; Svedjan; Uglem; Wald; Weiler; Weisz; Wrangham; Zaiser; Speaker Klein

NAYS: Amerman; Bernstein; Boe; Boehning; Boucher; Brandenburg; Carlson; Charging; Clark; Delzer; Devlin; Dosch; Drowdal; Ekstrom; Froelich; Froseth; Glassheim; Grande; Gulleeson; Hanson; Hawken; Headland; Hunsakor; Iverson; Kasper; Kelsh, S.; Kempenich; Kerzman; Koppelman; Kretschmar; Meier, L.; Metcalf; Meyer, S.; Mueller; Onstad; Pollert; Sandvig; Thoreson; Thorpe; Timm; Vigesaa; Wall; Wieland; Williams

SB 2366 passed and the title was agreed to.

MOTION

REP. MONSON MOVED that all the Do Not Concurs on the Twelfth Order be adopted with the exclusion of HB 1290, which motion prevailed.

APPOINTMENT OF CONFERENCE COMMITTEE

THE SPEAKER ANNOUNCED the following appointments to a Conference Committee on SB 2129: Reps. Froseth, L. Meier, Amerman.

APPOINTMENT OF CONFERENCE COMMITTEE

THE SPEAKER ANNOUNCED the following appointments to a Conference Committee on SB 2149: Reps. Devlin, Damschen, Potter.

APPOINTMENT OF CONFERENCE COMMITTEE

THE SPEAKER ANNOUNCED the following appointments to a Conference Committee on SB 2251: Reps. Maragos, Charging, Delmore.

APPOINTMENT OF CONFERENCE COMMITTEE

THE SPEAKER ANNOUNCED the following appointments to a Conference Committee on SB 2261: Reps. Weisz, Damschen, Sandvig.

APPOINTMENT OF CONFERENCE COMMITTEE

THE SPEAKER ANNOUNCED the following appointments to a Conference Committee on SB 2298: Reps. Kreidt, Pietsch, Kaldor.

APPOINTMENT OF CONFERENCE COMMITTEE

THE SPEAKER ANNOUNCED the following appointments to a Conference Committee on SB 2324: Reps. Kretschmar, N. Johnson, Zaiser.

APPOINTMENT OF CONFERENCE COMMITTEE

THE SPEAKER ANNOUNCED the following appointments to a Conference Committee on SB 2388: Reps. Uglem, Porter, Sandvig.

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

MR. PRESIDENT: The House has amended and subsequently passed: SB 2037, SB 2096, SB 2118, SB 2200, SB 2204, SB 2208.

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

MR. PRESIDENT: The House has amended, subsequently passed, and the emergency clause carried: SB 2146, SB 2340.

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

MR. PRESIDENT: The House has passed unchanged: SB 2041, SB 2348, SB 2366.

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

MR. PRESIDENT: The House has failed to pass: SB 2139.

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

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

SB 2129: Reps. Froseth; L. Meier; Amerman

SB 2149: Reps. Devlin; Damschen; Potter

SB 2251: Reps. Maragos; Charging; Delmore

SB 2261: Reps. Weisz; Damschen; Sandvig

SB 2298: Reps. Kreidt; Pietsch; Kaldor

SB 2324: Reps. Kretschmar; N. Johnson; Zaiser

SB 2388: Reps. Uglem; Porter; Sandvig

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 1404, HCR 3007, HCR 3014, HCR 3023, HCR 3029.

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 1116, HB 1140, HB 1141, HB 1169, HB 1185, HB 1262, HB 1271, HB 1354, HB 1368, HB 1398, HB 1501, HCR 3011, HCR 3028, HCR 3034, HCR 3038, HCR 3039, HCR 3040.

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

MR. PRESIDENT: The Speaker has signed: SCR 4001, SCR 4003, SCR 4005, SCR 4009, SCR 4010, SCR 4011, SCR 4015, SCR 4016, SCR 4019, SCR 4024, SCR 4026, SCR 4027, SCR 4031, SCR 4032, SCR 4033.

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

MR. PRESIDENT: The Speaker has signed: SB 2074, SB 2076, SB 2082, SB 2094, SB 2121, SB 2132, SB 2150, SB 2158, SB 2162, SB 2167, SB 2194, SB 2201, SB 2209, SB 2220, SB 2231, SB 2252, SB 2260, SB 2293, SB 2295, SB 2338, SB 2349, SB 2351, SB 2401.

DELIVERY OF ENROLLED BILLS AND RESOLUTIONS

The following bills were delivered to the Governor for approval on March 23, 2005: HB 1055, HB 1073, HB 1175, HB 1254, HB 1265, HB 1283, HB 1360, HB 1482.

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)
MR. SPEAKER: The Senate has passed unchanged: HB 1124, HB 1127, HB 1152, HB 1164, HB 1293, HCR 3043, HCR 3054.

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)
MR. SPEAKER: The Senate has passed, the emergency clause carried, unchanged: HB 1060.

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 1522.

SENATE AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1522

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

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)
MR. SPEAKER: The Senate has amended and subsequently passed: HB 1061, HB 1209, HB 1433, HB 1438, HB 1453.

SENATE AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1061

Page 1, line 10, remove "also"

Renumber accordingly

SENATE AMENDMENTS TO HOUSE BILL NO. 1209

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."

SENATE AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1433

Page 1, line 2, after "16.1-11-27" insert ", 16.1-11-30"

Page 1, line 3, remove "and" and after "40-21-02" insert ", 44-02-05, and 44-02-08"

Page 9, after line 10, insert:

"SECTION 10. AMENDMENT. Section 16.1-11-30 of the North Dakota Century Code is amended and reenacted as follows:

16.1-11-30. Separate column on primary election ballot required for each political party. Any party that had printed on the ballot at the last preceding presidential election the names of a set of presidential electors pledged to the election of the party's candidates for president and vice president or a candidate for governor and those candidates for presidential electors or governor received at least five percent of the total vote cast for presidential electors or the office of governor within this state at that election; any party that had printed on the ballot at the last preceding non-presidential election a candidate for attorney general or secretary of state, and the candidate received at least five percent of the total vote cast for the office the candidate was seeking at the election; or any party that has organized according to all the requirements of chapter 16.1-03 must be provided with a separate column on primary election ballots.

Any other political organization is entitled to endorse candidates or have candidates petition to be included on the primary ballot in a consolidated column or on a special election ballot, if a petition signed by at least seven thousand qualified electors of this state is filed with the secretary of state before four p.m. of the sixtieth day before a primary or special election, naming the political organization, stating the platform principles of the party, and requesting the names of its candidates to be included on the state's primary ballot in a consolidated column. If the petition is mailed, it must be in the possession of the secretary of state before four p.m. on the sixtieth day prior to a primary or special election. Candidates of that party are entitled to the same rights and privileges as those of other parties. Petitions circulated according to this section must be filed with the secretary of state in accordance with section 1-01-50.

A political organization that had printed on the ballot at the last preceding presidential election the names of a set of presidential electors pledged to the election of the party's candidates for president and vice president or a candidate for governor and those candidates for presidential electors or governor received at least five percent of the total vote cast for presidential electors or the office of governor within this state at that election are entitled to organize according to the requirements of chapter 16.1-03."

Page 11, after line 16, insert:

"SECTION 16. AMENDMENT. Section 44-02-05 of the North Dakota Century Code is amended and reenacted as follows:

44-02-05. Vacancy in board of county commissioners - How filled. When a vacancy occurs in the board of county commissioners, the remaining members of the board, with the district judge selected by the remaining county commissioners, immediately shall appoint some suitable person to fill the vacancy from the district in which the vacancy occurred. If a majority of the officers fails to agree upon a person to fill the vacancy, the county treasurer or, if the county does not have an elected treasurer, another elective county officer must be called in and shall act as an additional member of the board to fill the vacancy. The appointee holds office until the appointee's successor is elected at the next general election that occurs at least sixty days after the vacancy and the successor has qualified.

SECTION 17. AMENDMENT. Section 44-02-08 of the North Dakota Century Code is amended and reenacted as follows:

44-02-08. Appointment to be made in writing - Term. Any appointment to fill a vacancy under ~~the provisions of~~ this chapter must be made in writing, and, except as otherwise expressly provided by law, continues in force until the first general election ~~thereafter~~ that occurs at least sixty days after the vacancy, when the vacancy will be filled by election, and thereafter until the appointee's successor by election is qualified."

Renumber accordingly

SENATE AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1438

Page 1, line 1, replace "sections" with "section" and remove "and 40-01.1-02"

Page 1, line 2, after "studies" insert "; and to repeal chapter 40-01.1 of the North Dakota Century Code, relating to local governance option advisory studies"

Page 1, line 15, overstrike "The analysis may be performed as part of a study process initiated pursuant to"

Page 1, overstrike line 16

Page 1, line 17, overstrike "3."

Page 2, line 14, overstrike "4." and insert immediately thereafter "3."

Page 2, line 27, replace "**AMENDMENT.** Section 40-01.1-02" with "**REPEAL.** Chapter 40-01.1"

Page 2, replace lines 28 through 31 with "repealed."

Page 3, remove lines 1 through 31

Page 4, remove lines 1 through 19

Renumber accordingly

SENATE AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1453

Page 1, line 1, replace "a" with "two" and replace "subsection" with "subsections"

Page 1, line 4, replace "A" with "Two" and replace "subsection" with "subsections"

Page 1, line 5, replace "is" with "are"

Page 1, line 6, after "member" insert "or a former member"

Page 1, after line 6, insert:

"A former governor of North Dakota."

Renumber accordingly

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

MR. SPEAKER: The Senate has failed to pass: HB 1201, HB 1414, HB 1520, HCR 3046, HCR 3050.

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 2087, SB 2125, SB 2147, SB 2265, SB 2297, and SB 2356.

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

MOTION

REP. MONSON MOVED that the absent members be excused, which motion prevailed.

MOTION

REP. MONSON MOVED that the House be on the Fifth, Thirteenth, Fourteenth, and Sixteenth orders of business and at the conclusion of those orders, the House stand adjourned until 1:00 p.m., Thursday, March 24, 2005, which motion prevailed.

REPORT OF STANDING COMMITTEE

SB 2044, as engrossed: Appropriations Committee (Rep. Svedjan, Chairman) recommends **DO PASS** (22 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed SB 2044 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2067, as engrossed: Judiciary Committee (Rep. DeKrey, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed SB 2067 was placed on the Sixth order on the calendar.

Page 2, line 18, after "sold" insert "except", remove the overstrike over "if", and remove "except:"

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

Page 2, line 21, remove the overstrike over "~~, or if~~" and remove the underscored semicolon

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

Page 2, line 25, remove the overstrike over the period and insert immediately thereafter "3." and remove the overstrike over "~~A person may enter and remain on the~~"

Page 2, line 26, remove the overstrike over "~~licensed premises if~~" and remove the underscored semicolon

Page 2, line 27, remove "c. If"

Page 2, line 28, remove the underscored semicolon and remove the overstrike over "if"

Page 2, line 29, remove "d. If"

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

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

Page 3, line 5, after "restaurant" insert "as provided in subsection 2"

Page 3, line 12, replace "5." with "6."

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2186, as engrossed: Industry, Business and Labor Committee (Rep. Keiser, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (11 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING). Engrossed SB 2186 was placed on the Sixth order on the calendar.

Page 1, remove lines 8 through 12

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

Page 1, line 16, replace "3." with "2."

Page 2, line 12, replace "4." with "3."

Page 2, remove line 15

Page 2, line 27, replace "if a claim is the insured's first claim resulting from a" with "resulting from wind or hail if the insured had no previous wind or hail claim on that property within the previous five years regardless of the insurer"

Page 2, line 28, remove "weather-related event"

Page 3, line 7, replace "mitigate" with "repair"

Page 3, line 9, after "writing" insert "or in the same medium as the application"

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2269, as engrossed: Human Services Committee (Rep. Price, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 3 NAYS, 2 ABSENT AND NOT VOTING). Engrossed SB 2269 was placed on the Sixth order on the calendar.

Page 1, line 21, remove "professional"

Page 2, line 14, replace ""LMFT"" with ""MFT""

Page 3, remove lines 1 through 3

Page 3, line 4, replace "d." with "c."

Page 3, line 6, replace "e." with "d."

Page 3, line 8, replace "professional" with "licensed"

Page 3, line 10, replace "if that person" with ", including the practice and advertising of marriage and family therapy services"

Page 3, remove line 11

Page 3, line 12, remove "family therapist"

ReNUMBER accordingly

REPORT OF STANDING COMMITTEE

SB 2281, as engrossed: Finance and Taxation Committee (Rep. Belter, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (12 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). Engrossed SB 2281 was placed on the Sixth order on the calendar.

In lieu of the amendments adopted by the House as printed on pages 1118 and 1119 of the House Journal, Engrossed Senate Bill No. 2281 is amended as follows:

Page 1, line 1, after "to" insert "create and enact a new subsection to section 57-38.6-03 of the North Dakota Century Code, relating to agricultural business investment income tax credits; to"

Page 4, replace lines 3 through 17 with:

"SECTION 4. A new subsection to section 57-38.6-03 of the North Dakota Century Code is created and enacted as follows:

A taxpayer whose investment in an agricultural commodity processing facility was made before January 1, 2005, and did not qualify for the tax credit because of the two million five hundred thousand dollar credit limitation in section 57-38.5-02, is entitled to a credit against state income tax liability under section 57-38-29 or 57-38-30.3 in the amount of thirty percent of the amount invested by the taxpayer in a qualified business, subject to the following:

- a. The aggregate investment for which a taxpayer may obtain a credit under this subsection is not less than five thousand dollars and not more than two hundred fifty thousand dollars.
- b. In any taxable year, a taxpayer may claim no more than one-fourth of the credit under this subsection which is attributable to an investment made before January 1, 2005.
- c. Any amount of credit under this subsection not allowed because of the limitations in this section may be carried forward for up to four taxable years after the taxable year in which the investment was made."

Page 4, line 25, replace "4" with "5"

Page 4, line 26, after the period insert "Section 4 of this Act is effective for tax year 2004 and is thereafter ineffective, except any unused credit may be carried forward as provided in section 4 of this Act."

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2300, as engrossed: Human Services Committee (Rep. Price, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (10 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SB 2300 was placed on the Sixth order on the calendar.

Page 1, line 1, after "to" insert "create and enact a new section to chapter 23-12 of the North Dakota Century Code, relating to smoke-free exceptions; to"

Page 2, line 11, after "beverages" insert ", including bars located within hotels or restaurants which are in separate enclosed areas vented directly to the outdoors which are not licensed primarily or exclusively to sell alcoholic beverages"

Page 2, line 26, replace "Health care services" with:

"7. "Health care services""

Page 2, line 27, after the fifth underscored comma insert "and" and replace ", and" with an underscored period

Page 2, remove lines 28 and 29

Page 2, line 30, replace "7." with "8."

Page 3, line 4, replace "8." with "9."

Page 3, line 22, replace "9." with "10."

Page 3, line 25, replace "10." with "11."

Page 4, line 1, replace "11." with "12."

Page 4, line 4, replace "12." with "13."

Page 4, line 6, replace "13." with "14."

Page 4, line 9, replace "14." with "15."

Page 5, remove lines 17 and 18

Page 5, line 19, replace "g." with "f." and remove ", until August 1, 2007"

Page 5, replace lines 20 through 22 with:

"g. Any place of public access rented or leased for private functions from which the general public and children are excluded and arrangements for the function are under the control of the function sponsor."

Page 6, after line 24, insert:

"**SECTION 4.** A new section to chapter 23-12 of the North Dakota Century Code is created and enacted as follows:

Exceptions - Medical necessity.

1. Notwithstanding the provisions of any other state or local law, a patient may smoke in a hospital licensed by the state or on the grounds of a hospital licensed by the state if the patient's attending physician authorizes the activity based on medical policies adopted by the hospital organized medical staff.
2. Notwithstanding the provisions of any other state or local law, a resident of a licensed basic care facility or a licensed nursing facility may smoke in the facility or on the grounds of the facility if approved by the board of the facility.

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2344: Appropriations Committee (Rep. Svedjan, Chairman) recommends **DO PASS** (21 YEAS, 1 NAY, 1 ABSENT AND NOT VOTING). SB 2344 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2358, as engrossed: Education Committee (Rep. R. Kelsch, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (12 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SB 2358 was placed on the Sixth order on the calendar.

Page 1, line 3, after the third comma insert "15.1-21-12,"

Page 2, line 26, after "teachers" insert ", however, the school board of a nonpublic school may choose three alternate days as holidays"

Page 3, line 7, remove "a."

Page 3, remove lines 9 through 17

Page 4, line 7, overstrike "holds a valid teaching certificate issued" and insert immediately thereafter "is licensed to teach by the education standards and practices board or approved to teach"

Page 4, line 9, overstrike "The students are offered all subjects required by law" and insert immediately thereafter "Each classroom teacher is teaching only in those course areas or fields for which the teacher is licensed or for which the teacher has received an exception under section 2 of House Bill No. 1076, as approved by the fifty-ninth legislative assembly"

Page 4, line 10, remove "and"

Page 4, line 11, after "laws" insert "; and

5. The students are offered all subjects required by law"

Page 4, line 15, replace "2005" with "2006"

Page 4, after line 17, insert:

"SECTION 5. AMENDMENT. Section 15.1-21-12 of the North Dakota Century Code is amended and reenacted as follows:

15.1-21-12. Professional development - ~~Use of available funds~~ Annual report.

1. On or before ~~October first~~ June thirtieth of each year, each school district shall file a report with the superintendent of public instruction indicating:
 - a. The amount and source of funds that were made available to the district for professional development during the preceding school year;
 - b. The amount and source of funds that were expended by the district for professional development during the preceding school year; and
 - c. A separate list of the professional development activities in which the district participated during the preceding school year and the amount of time committed to the activities.
2. ~~The superintendent of public instruction shall compile the information submitted under this section to determine how much of the available funding for professional development was used by school districts in this state and, beginning with the reports due on or before October 1, 2002, whether the expenditure correlated with increased student achievement on the reading and mathematics tests required by section 15.1-21-08. The superintendent of public instruction shall provide information from the district reports to appropriate legislative committees."~~

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2368, as engrossed: Transportation Committee (Rep. Weisz, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (10 YEAS, 2 NAYS, 3 ABSENT AND NOT VOTING). Engrossed SB 2368 was placed on the Sixth order on the calendar.

Page 1, line 2, remove "nonprofit"

Page 1, replace lines 6 through 24 with:

"Public or nonprofit organization number plate.

1. The director shall develop an organization number plate program for distinctive number plates for qualifying public and for nonprofit organizations recognized by the internal revenue service as tax exempt under 26 U.S.C. 501(c)(3). When appropriate, the department shall design a distinctive number plate to minimize the changes to a single application of overlay on the left side of the number plate. The organization may submit a design for the distinctive number plate for approval by the director. Upon approval by the director and proper application with proof of a minimum of four hundred applicants for a certain organization's number plate, the director shall include the number plate in the organization number plate program.
2. The following organizations do not qualify for an organization number plate: out-of-state colleges and universities; unions; political organizations; religious organizations; groups that promote racial or social disharmony; and public offices.
3. Upon proper application for a plate in the organization number plate program and payment of all other fees required under this chapter for registration of the motor vehicle and payment of an additional annual fee of twenty-five dollars, a qualified applicant is entitled to issuance of a certain organization number plate. However, the director may not issue the plates to the owner of a passenger motor vehicle or a truck the gross weight of which equals or exceeds ten thousand pounds [4535.92 kilograms].
4. The director shall deposit ten dollars of the additional organization number plate fee in the highway tax distribution fund and transfer monthly fifteen dollars to the proper organization to support programs of that organization."

Page 2, remove lines 1 through 12

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2395, as reengrossed: Appropriations Committee (Rep. Svedjan, Chairman) recommends **DO PASS** (22 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Reengrossed SB 2395 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

SCR 4012: Constitutional Revision Committee (Rep. Koppelman, Chairman) recommends **DO PASS** (6 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). SCR 4012 was placed on the Fourteenth order on the calendar.

The House stood adjourned pursuant to Representative Monson's motion.

Bradley C. Fay, Chief Clerk