

JOURNAL OF THE HOUSE

Sixty-first Legislative Assembly

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Bismarck, March 25, 2009

The House convened at 11:00 a.m., with Speaker Monson presiding.

The prayer was offered by Kari Bitz, Coordinator for National Day of Prayer, Bismarck.

The roll was called and all members were present except Representatives Belter, Boe, Boucher, Dosch, Ekstrom, Froelich, Kaldor, S. Kelsh, L. Meier, S. Meyer, Mock, Nathe, Porter, Schneider, Thorpe, Wall and Weiler.

A quorum was declared by the Speaker.

COMMUNICATION FROM GOVERNOR JOHN HOEVEN

This is to inform you that on March 19, 2009, I have signed the following: HB 1030, HB 1036, HB 1061, HB 1062, HB 1072, HB 1078, HB 1084, HB 1087, HB 1098, HB 1099, HB 1115, HB 1117, HB 1118, HB 1122, HB 1132, HB 1137, HB 1141, HB 1149, HB 1163, HB 1164, HB 1220, HB 1287, HB 1414, HB 1482, and HB 1500.

Also, on March 24, 2009, I have signed the following: HB 1025, HB 1150, HB 1181, HB 1184, HB 1201, HB 1205, HB 1215, HB 1270, HB 1273, HB 1300, HB 1326, HB 1353, HB 1382, HB 1430, HB 1451, and HB 1455.

SIXTH ORDER OF BUSINESS

SPEAKER MONSON DEEMED approval of the amendments to SB 2044, SB 2256, Engrossed SB 2278, Engrossed SB 2318, and SCR 4008.

SCR 4008, as amended, was placed on the Tenth order of business on the calendar for the succeeding legislative day.

SB 2044, SB 2256, Engrossed SB 2278, and Engrossed SB 2318, as amended, were placed on the Fourteenth order of business on the calendar for the succeeding legislative day.

SECOND READING OF SENATE BILL

SB 2218: A BILL for an Act to create and enact a new section to chapter 19-02.1 and section 19-03.1-22.4 of the North Dakota Century Code, relating to requirements for prescribing and dispensing controlled substances and certain other specified drugs and requirements for dispensing controlled substances by means of the internet; to amend and reenact subsection 2 of section 19-02.1-15 and section 19-03.1-23 of the North Dakota Century Code, relating to the exclusion from the exemption for dispensing certain drugs and penalties for unlawful distribution or dispensing of controlled substances and counterfeit controlled substances by means of the internet; 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 78 YEAS, 0 NAYS, 0 EXCUSED, 16 ABSENT AND NOT VOTING.

YEAS: Amerman; Bellew; Berg; Boehning; Brandenburg; Carlson; Clark; Conklin; Conrad; Dahl; Damschen; DeKrey; Delmore; Delzer; Drovda; Frantsvog; Froseth; Glassheim; Grande; Griffin; Gruchalla; Hanson; Hatlestad; Hawken; Headland; Heller; Hofstad; Holman; Hunskor; Johnson, D.; Johnson, N.; Karls; Kasper; Keiser; Kelsch, R.; Kelsh, J.; Kempenich; Kerzman; Kilichowski; Kingsbury; Klein; Klemm; Koppelman; Kreidt; Kretschmar; Kroeber; Martinson; Metcalf; Mueller; Myxter; Nathe; Nelson; Nottestad; Onstad; Pietsch; Pinkerton; Pollert; Potter; Ruby; Rust; Schatz; Schmidt; Skarphol; Sukut; Svedjan; Thoreson; Uglem; Vig; Vigasaa; Wald; Weisz; Wieland; Williams; Winrich; Wolf; Wrangham; Zaiser; Speaker Monson

ABSENT AND NOT VOTING: Belter; Boe; Boucher; Dosch; Ekstrom; Froelich; Kaldor; Kelsh, S.; Meier, L.; Meyer, S.; Mock; Porter; Schneider; Thorpe; Wall; Weiler

SB 2218, as amended, passed and the title was agreed to.

MOTION

REP. VIGESAA MOVED that Rule 508 be suspended and the deadline be moved to the 56th Legislative Day, which motion prevailed.

MOTION

REP. VIGESAA MOVED that all House employees be compensated for Thursday and Friday, March 26 and March 27, 2009, while the House is in recess due to the flood crisis all over the State of North Dakota. Whereas the employees have put in many hours of uncompensated overtime and will put in many more before the session adjourns, the Legislative Assembly feels they deserve to be paid for these days.

MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)

MR. PRESIDENT: The House has amended and subsequently passed: SB 2218.

MESSAGE TO THE HOUSE FROM THE SENATE (FRAN A. GRONBERG, SECRETARY)

MR. SPEAKER: The Senate has passed unchanged: HB 1069, HB 1070, HB 1123, HB 1126, HB 1196, HB 1244, HB 1271, HB 1362, HB 1403, HCR 3003, HCR 3017, HCR 3026, HCR 3028, HCR 3041, HCR 3042, HCR 3061.

MESSAGE TO THE HOUSE FROM THE SENATE (FRAN A. GRONBERG, SECRETARY)

MR. SPEAKER: The Senate has amended, subsequently passed, and the emergency clause carried: HB 1561.

SENATE AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1561

Page 1, line 2, after "decisions" insert "; to provide for application; and to declare an emergency"

Page 1, after line 22, insert:

"SECTION 2. APPLICATION. This Act applies only to claims filed on or after the effective date of this Act.

SECTION 3. EMERGENCY. This Act is declared to be an emergency measure."

ReNUMBER accordingly

MESSAGE TO THE HOUSE FROM THE SENATE (FRAN A. GRONBERG, SECRETARY)

MR. SPEAKER: The Senate has amended and subsequently passed: HB 1035, HB 1044, HB 1162, HB 1204, HB 1284, HB 1437, HB 1496, HB 1510.

SENATE AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1035

Page 1, line 10, after "surplus" insert "determined as of June thirtieth of each year"

Page 1, line 13, after "2." insert "If the level of financial reserves plus available surplus determined as of June thirtieth of any year is below one hundred twenty percent of the actuarially established discounted reserve, notwithstanding section 65-04-01 the organization shall modify premium rates for the next year so that one-tenth of the difference between the actuarially discounted reserve and one hundred twenty percent of the actuarially discounted reserve is estimated to be collected during the following year.

3. If the level of financial reserves plus available surplus determined as of June thirtieth of any year is above one hundred forty percent of the actuarially established discounted reserve, the organization shall issue premium dividends in a fiscally prudent manner so that the organization is estimated to come into compliance with the requirements of subsection 1 within the following two years.

4."

Page 1, line 17, replace "3." with "5."

ReNUMBER accordingly

SENATE AMENDMENTS TO REENGROSSED HOUSE BILL NO. 1044

Page 1, line 3, after "risk" insert "; and to provide a continuing appropriation"

Page 1, line 7, after "**Rules**" insert "**- Continuing appropriation**"

Page 2, after line 9, insert:

- "4. The department may accept and receive grants and other sources of funding for the development of a program for services to transition-aged youth at risk. All moneys received by the department as gifts, grants, or donations for the development of a program for services to transition-aged youth at risk under this section are appropriated on a continuing basis to the department."

Renumber accordingly

SENATE AMENDMENTS TO HOUSE BILL NO. 1162

Page 1, line 9, after the underscored period insert "This section does not apply to the sale or offer for sale of an item that is not a flag but which portrays a likeness of a flag of the United States of America, such as food, clothing, a lapel pin, a paper product, or other non-flag item."

Renumber accordingly

SENATE AMENDMENTS TO HOUSE BILL NO. 1162

In addition to the amendments adopted by the Senate as printed on pages 894 and 895 of the Senate Journal, House Bill No. 1162 is further amended as follows:

Page 1, line 1, after "chapter" insert "44-08 and a new section to chapter"

Page 1, line 2, after "sale" insert "and purchase"

Page 1, after line 4, insert:

"SECTION 1. A new section to chapter 44-08 of the North Dakota Century Code is created and enacted as follows:

Purchase of flags of the United States. A state entity or any political subdivision of this state may not purchase a flag of the United States of America unless the flag was manufactured in the United States of America. This section does not apply to the purchase of an item that is not a flag but which portrays a likeness of a flag of the United States of America, such as food, clothing, a lapel pin, a paper product, or other non-flag item."

Renumber accordingly

SENATE AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1204

Page 1, line 1, after "enact" insert "subsection 15 to section 26.1-36-05," and after "26.1-36" insert a comma

Page 1, line 4, after "to" insert "individual"

Page 6, after line 5, insert:

"SECTION 2. Subsection 15 to section 26.1-36-05 of the North Dakota Century Code is created and enacted as follows:

15. A provision that except as otherwise provided under this subsection, the insurer is not liable for any loss to which a contributing cause was the insured's commission of or attempt to commit a crime or to which a contributing cause was the insured's engagement in an illegal occupation. However, under this subsection the insurer is liable for a loss to the extent the crime committed was a misdemeanor violation of section 39-08-01."

Page 6, line 10, after the first underscored comma insert "individual."

Page 6, line 14, after the underscored period insert "The coverage required under this section may be subject to limitations under subdivision g of subsection 2 of section 26.1-36-04 or subsection 15 of section 26.1-36-05."

Page 6, line 20, after "under" insert "subsection 15 of section 26.1-36-05 and" and replace "2" with "3"

Renumber accordingly

SENATE AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1284

Page 1, line 3, replace "subsection" with "subsections 19 and"

Page 1, line 4, replace "term" with "terms", after "viatical" insert "or life", and after "contract" insert "and security"

Page 1, line 8, replace "Subsection" with "Subsections 19 and"

Page 1, line 9, replace "is" with "are"

Page 1, after line 9, insert:

"19. "Security" means any note; stock; treasury stock; bond; debenture; evidence of indebtedness; certificate of interest or participation in any profit-sharing agreement; certificate of interest or participation in an oil, gas, or mining title or lease or in payments out of production under such a title or lease; collateral trust certificate; preorganization certificate or subscription; transferable share; investment contract; viatical or life settlement contract or a fractionalized or pooled interest therein; program, contract, or other arrangement in which persons invest in a common enterprise the returns of which depend to any extent upon inducing other persons to participate or invest in the enterprise; investment of money or money's worth including goods furnished or services performed in the risk capital of a venture with the expectation of profit or some other form of benefit to the investor when the investor has no direct control over the investment or policy decisions of the venture; voting-trust certificate; certificate of deposit for a security; foreign currency commodity contract, as used in chapter 51-23; or beneficial interest in title to property, profits, or earnings; or, in general, any interest or instrument commonly known as a "security"; or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing."

Page 1, line 10, after "Viatical" insert "or life"

Page 1, line 13, after ""Viatical" insert "or life"

Page 1, line 16, overstrike "viator" and insert immediately thereafter "owner" and overstrike "viatical"

Page 1, line 17, overstrike "settlement"

Renumber accordingly

SENATE AMENDMENTS TO HOUSE BILL NO. 1437

In lieu of the amendments as printed on page 677 of the Senate Journal, House Bill No. 1437 is amended as follows:

Page 1, line 11, after "checks" insert "for licensees"

Page 3, line 15, replace "may" with "shall"

Page 3, line 16, remove "or a licensee"

Page 3, line 17, after the underscored period insert "The board may require any licensee to submit to a statewide and nationwide criminal history check."

Renumber accordingly

SENATE AMENDMENTS TO REENGROSSED HOUSE BILL NO. 1496

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to title 36 of the North Dakota Century Code, relating to an equine assessment; to provide for an equine processing facility feasibility study; to create an advisory committee; to provide an appropriation; to provide a continuing appropriation; and to provide for legislative intent."

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to title 36 of the North Dakota Century Code is created and enacted as follows:

Assessment - Continuing appropriation - Provision of grants.

1. For each equine processed at an equine processing facility in this state, the owner of the facility shall submit to the agriculture commissioner, at the time and in the manner directed by the commissioner, an assessment in the amount of five dollars. The commissioner shall forward the assessment to the state treasurer for deposit in the equine processing fund.
2. All moneys in the equine processing fund are appropriated on a continuing basis to the agriculture commissioner to be used as follows:
 - a. The agriculture commissioner shall return to the state general fund the fifty thousand dollars appropriated to the department of commerce for the equine processing facility feasibility study.
 - b. Upon completion of the requirement set forth in subdivision a, the commissioner shall:
 - (1) Provide an annual grant equaling forty percent of any assessments collected to Dickinson state university in support of the equine management program;
 - (2) Provide an annual grant equaling forty percent of any assessments collected to North Dakota state university in support of the equine studies program; and
 - (3) Provide an annual grant equaling twenty percent of any assessments collected to public or private entities conducting equine research or offering hippotherapy to individuals with disabilities.

SECTION 2. EQUINE PROCESSING FACILITY FEASIBILITY STUDY.

1. During the 2009-10 interim, the department of commerce shall conduct an equine processing facility feasibility study. The study must begin with a review of federal laws, regulations, policies, and guidelines regarding equine processing and an evaluation of the potential for amendments and modifications. If an equine processing facility is determined to be permissible under existing laws, the study may proceed to:
 - a. Address the cost of constructing a new equine processing facility in this state;
 - b. Determine whether any existing structures could be converted to an equine processing facility and the cost of converting the structures;
 - c. Determine the nature and scope of existing and potential markets, both domestic and international, for equine meat and other byproducts of equine processing; and
 - d. Examine the potential for obtaining loans, grants, and other incentives in order to further the development of an equine processing facility.
2. The department shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-second legislative assembly.

SECTION 3. ADVISORY COMMITTEE - REIMBURSEMENT FOR EXPENSES. The department of commerce may appoint a five-member committee to provide advice and guidance to the department regarding the feasibility study provided for in section 2 of this Act. The department may use up to \$5,000 of the amount appropriated under section 4 of this Act to provide reimbursement for expenses, as allowed by law for state officers, to any member of the advisory committee who does

not serve on the committee by virtue of the individual's public office or public employment.

SECTION 4. APPROPRIATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$50,000, or so much of the sum as may be necessary, to the department of commerce for the purpose of conducting the equine processing facility feasibility study as provided under section 2 of this Act, for the biennium beginning July 1, 2009, and ending June 30, 2011. The department may expend the moneys appropriated under this section only if matching funds are obtained on a dollar-for-dollar basis.

SECTION 5. LEGISLATIVE INTENT - AGRICULTURAL PRODUCTS UTILIZATION COMMISSION - CONSIDERATION OF GRANT PROPOSAL. It is the intent of the legislative assembly that the agricultural products utilization commission consider making a grant available under section 4-14.1-03.1 to assist with the requirement for matching funds as provided under section 1 of this Act."

Renumber accordingly

SENATE AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1510

Page 1, line 8, remove "business"

Page 1, line 13, remove "business"

Renumber accordingly

MOTION

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

MOTION

REP. VIGESAA MOVED that the House be on the Fourth, Fifth, and Thirteenth orders of business and at the conclusion of those orders, the House stand adjourned until 12:30 p.m., Monday, March 30, 2009, which motion prevailed.

REPORT OF STANDING COMMITTEE

SB 2394: Human Services Committee (Rep. Weisz, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (12 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2394 was placed on the Sixth order on the calendar.

Page 1, line 3, after "minors" insert "; and to provide for a legislative council study"

Page 1, line 8, replace "A minor may provide consent and contract for and receive" with "a. A physician or other health care provider may provide" and remove the underscored comma

Page 1, line 9, remove "prenatal care," and replace ", and the consent of no" with "to a minor without the consent of a parent or guardian."

- b. A physician or other health care provider may provide prenatal care to a pregnant minor in the first trimester of pregnancy or may provide a single prenatal care visit in the second or third trimester of pregnancy without the consent of a parent or guardian.
- c. A physician or other health care provider may provide prenatal care beyond the first trimester of pregnancy or in addition to the single prenatal care visit in the second or third trimester if, after a good-faith effort, the physician or other health care provider is unable to contact the minor's parent or guardian.
- d. The costs incurred by the physician or other health care provider for performing services under this section may not be submitted to a third-party payer without the consent of the minor's parent or guardian"

Page 1, line 10, remove "other person is required" and after the underscored period insert:

"e."

Page 2, after line 3, insert:

"SECTION 2. SERVICES FOR PREGNANT MINORS - LEGISLATIVE COUNCIL STUDY. During the 2009-10 interim, the legislative council shall consider studying existing services for minors who are pregnant and whether additional education and social services would enhance the potential for a healthy child and a positive outcome for the minor. The study must consider the potential benefits of support services for parents of these minors and guardianship for the minor for cases in which parental abuse or neglect may be an issue. The study must also consider the benefits to the minor of subsidies for open adoptions and supportive housing and child care for single parents enrolled in secondary and postsecondary educational institutions. The study must also determine the most desirable evidence-based service delivery system and the amount and sources of adequate funding. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-second legislative assembly."

Renumber accordingly

REPORT OF STANDING COMMITTEE

HCR 3063: Finance and Taxation Committee (Rep. Belter, Chairman) recommends DO PASS (7 YEAS, 3 NAYS, 3 ABSENT AND NOT VOTING). HCR 3063 was placed on the Eleventh order on the calendar.

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

Buell J. Reich, Chief Clerk

